

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3
4 HILDA L. SOLIS, Secretary of)
5 Labor, United States Department)
6 of Labor,)
7)
8 Plaintiff,)
9) Case No.:
10 -vs-) 2:12-cv-01406-RSM
11)
12 LANTERN LIGHT CORPORATION,)
13 d/b/a ADVANCED INFORMATION)
14 SYSTEMS, a corporation;)
15 DIRECTV, LLC, a limited)
16 liability company; and RAMON)
17 MARTINEZ, an individual,)
18)
19)
20)
21)
22)
23)
24 Reported by:
25 Cheryl Macdonald, CRR, RMR
 Court Reporter
 JOB No. 140604CMA

1

GRADILLAS COURT REPORTERS
(310) 859-6677

EXHIBIT N

1 A P P E A R A N C E S
2

3 FOR THE PLAINTIFF:

4 NIAMH E. DOHERTY
5 Trial Attorney
6 U.S. DEPARTMENT OF LABOR
7 Office of the Solicitor
8 350 South Figueroa Street
9 Suite 370
10 Los Angeles, California 90071
11 doherty.niamh@dol.gov

12 and
13

14 JOSEPH M. LAKE
15 Trial Attorney
16 U.S. DEPARTMENT OF LABOR
17 Office of the Solicitor
18 90 7th Street
19 Suite 3-700
20 San Francisco, California 94103
21 lake.joseph@dol.gov

22 FOR DIRECTV:

23 JOEL P. KELLY
24 Attorney at Law
25 JACKSON LEWIS
1725 South Figueroa Street
Suite 2500
Los Angeles, California 90017
Kelly@jacksonlewis.com

26 FOR LANTERN LIGHT CORPORATION:

27 JENNIFER L. TRUONG
28 Attorney at Law
29 AMS LAW
30 1711 South Jackson Street
31 Seattle, Washington 98144
32 jliutruong@amslaw.net

1	I N D E X	
2		
3	EXAMINATION	PAGE
4	BY MS. DOHERTY:	4
5		
6	EXHIBITS MARKED	PAGE
7		
8	No. 1 Rate card.....	22
9	No. 2 DirecTV Services Provider Agreement with Lumin.....	65
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHRISTOPHER KING, witness herein, having been first
2 duly sworn by the Certified Court
3 Reporter, deposed and said as
follows:

4 EXAMINATION

5 BY MS. DOHERTY:

6 Q. Good morning, Mr. King.

7 A. Good morning.

8 Q. Please state and spell your name for the
9 record.

10 A. Christopher King, C-H-R-I-S-T-O-P-H-E-R
11 K-I-N-G.

12 Q. Have you ever been deposed?

13 A. No.

14 Q. First time. Before we begin, I'll just go
15 over some ground rules. First of all, as you see, we
16 have a court reporter. She's transcribing everything.
17 And it's very important that she be able to hear
18 what's being said. So I'd ask that you allow me time
19 to finish my question, even if maybe you know what I'm
20 going to ask before you answer. Likewise, I'll try to
21 listen carefully, let you fully respond.

22 Your attorney might, of course, want to
23 object to something. So, depending on how things go,
24 you might want to wait a little bit before you
25 respond. We also require oral answers, so if you want

1 to nod or, you know --

2 A. Understood.

3 Q. You understand. Very good. Are you under
4 medical care at the moment?

5 A. No.

6 Q. Have you taken any drugs or medication that
7 might affect your ability to give competent testimony
8 today?

9 A. No.

10 Q. Any alcohol this morning?

11 A. No.

12 Q. Is there any reason you can think of that
13 might hinder your ability to give competent testimony
14 today?

15 A. No.

16 Q. If at any time you want to take a break we
17 can do that. Just let me know if we need to take a
18 break. We will take breaks periodically throughout
19 the day.

20 A. Sure.

21 Q. I would just ask that, if there's a
22 question pending, you would answer my question before
23 you ask for a break. I'd also ask that you not guess
24 but that you provide your best answer, which might be
25 an estimate but not a guess. So just to differentiate

1 those two, if I were to ask you how big is this table
2 you might estimate that it's 12 or 15 feet long. If I
3 were to ask you how big is my desk, which you've never
4 seen, you'd have to guess. So I ask that you avoid
5 guessing. If you don't know the answer to a question,
6 just simply state that you don't know and just give me
7 your best estimate. If at any time you recall the
8 answer to something that I had asked previously, feel
9 free to let me know, and we can either go back and
10 explore that or address it at that time.

11 Did you review any documents to prepare for
12 your deposition today?

13 A. Yes.

14 Q. What did you review?

15 A. Documents provided by my attorneys.

16 Q. Can you describe those documents?

17 A. Contract between DirecTV and AIS. Witness
18 statements. Prior testimony from our organization in
19 similar cases. Some financial documents from AIS.
20 That's really about what I've reviewed.

21 Q. And you mentioned prior testimony from
22 similar cases. Do you have any sense of how many
23 cases?

24 A. I'm sorry. Could you repeat the question?

25 Q. Sure. You mentioned that you reviewed

1 documents related to prior testimony in similar cases?

2 A. Uh-huh.

3 Q. Do you have any idea how many cases?

4 A. Oh, it was one to two, I think.

5 Q. One to two cases?

6 A. Yeah.

7 Q. Do you know where those cases are pending

8 or --

9 A. I do not.

10 Q. So let's talk about your background a

11 little bit.

12 A. Sure.

13 Q. Could you tell me about your education.

14 A. I have a bachelor's degree from Radford

15 University in Radford, Virginia. Degrees in

16 communications with a concentration on journalism.

17 Q. Okay.

18 A. Beyond college?

19 Q. Sure. If there's education beyond college.

20 A. No education. Bachelor's degree.

21 Q. Other certificates? No other education?

22 A. No.

23 Q. So once you graduated from college, let's

24 go through your work experience history.

25 A. Started my career as an intern with a

1 Congressman, Congressman Rich Boucher from my home
2 state in Washington D. C. So spent a short period of
3 time there. Shortly after worked for a PR company
4 called Edelman Worldwide. Started as an intern and
5 came on full-time a little bit after that. Following
6 Edelman I worked for the Electronic Industries
7 Association, which is known as today as SEMA, doing
8 CES shows and things like that.

9 After that worked for the Satellite
10 Broadcasting and Communications Association for a
11 couple of years, two and a half years. Shortly
12 thereafter worked for a member company of that
13 organization called the National Rural
14 Telecommunications Cooperative. And following that
15 worked for small boutique recruiting agency for one
16 year before going to Dish Network, and served as a
17 general manager for one of their operations there.

18 Six years later I started with a company
19 called Ironwood Communications that, within the year,
20 was purchased by DirecTV, and I've been with DirecTV
21 since.

22 Q. And about what year was that that it was
23 purchased by DirecTV?

24 A. I believe it was July of 2008.

25 Q. And Dish Network, what years were you at

1 Dish?

2 A. 2001 through -- through the late summer of
3 2007.

4 Q. At which time you went over to Ironwood?

5 A. That's correct.

6 Q. And when you started with DirecTV, so in
7 July 2008, when it took over Ironwood, what was your
8 role?

9 A. Regional director of operations.

10 Q. And what is your current role?

11 A. I'm responsible for all fulfillment of
12 operations in Colorado, Wyoming and Montana, and
13 ensuring that our fulfillment work meets and exceeds
14 our quality standards, and that our customer
15 satisfaction is representative of the DirecTV brand.

16 Q. Are you currently a regional director of
17 operations?

18 A. I am.

19 Q. So since 2008 you've maintained the same
20 position?

21 A. 2007, I was regional director of operations
22 for Ironwood. So for DirecTV specifically, yes.

23 Q. When you mentioned a fulfillment, what do
24 you mean by that?

25 A. Work orders that are placed by customers

1 and then sent to our organization to be completed.

2 Q. So where is your office currently?

3 A. Well, my office, my offices -- I'm from
4 Coeur d'Alene, Idaho, and I work out of a home office,
5 but I most frequently report to our office in Spokane,
6 our field office, but I travel frequently. So I'm on
7 the road most of the time.

8 Q. And you are the regional director of
9 operations in Washington state as well, was it?

10 A. No, not at present. When I originally
11 started with the organization Washington was a part of
12 my territory. It is no longer a part of my territory.

13 Q. So what is your current territory?

14 A. Colorado, Wyoming and Montana.

15 Q. So when you originally started, can you
16 tell me what states were in your territory?

17 A. Yes. Northern California, Washington, with
18 the exception of the Vancouver, Washington area. That
19 was by somebody else. The eastern end of Washington,
20 when I began. So -- and that's changed a few times
21 since.

22 Q. So aside from Northern California and then
23 parts of Washington there were no other places?

24 A. Sure. There were a few others.

25 Q. At that time, when you first began with

1 DirecTV?

2 A. No. Well, you could consider the northern
3 one third of Idaho in that group. Montana was added
4 later.

5 Q. And Wyoming was added later?

6 A. Wyoming was added later and Colorado,
7 correct.

8 Q. At what point did you stop overseeing
9 operations in Washington state?

10 A. Approximately September of 2012.

11 Q. Why the change?

12 A. I was given an opportunity to work in a
13 different division. It was a lateral move, but a good
14 one for my career.

15 Q. So the time period that our investigation
16 looked at was 2009 to 2011.

17 A. Uh-huh.

18 Q. And I understand that you were at a meeting
19 of -- with our wage and hour investigator, Amy Ward, I
20 think, a couple of years ago now?

21 A. I believe that's correct.

22 Q. What do you recall from that meeting?

23 A. Not much. It's been quite a while ago.

24 Q. Do you remember who was there?

25 A. I think Mr. Martinez, Ray Martinez was

1 there. I believe one of his staff members. I think
2 -- I don't remember her name. Perhaps Lisa was her
3 name. I believe -- obviously, I was physically there.
4 Several people, Ms. Ward, obviously, and I believe we
5 had representation from our legal department on the
6 phone, if memory serves.

7 Q. I'm sorry?

8 A. I said if memory serves.

9 Q. Okay, okay. We'll get back to that later.
10 Going back to the time that you oversaw operation in
11 Washington, in the Seattle area specifically --

12 A. Uh-huh.

13 Q. -- what were your responsibilities?

14 A. Well, I'm responsible for all work that's
15 completed in this area, right. All results,
16 financials, fleet management, training management for
17 our internal employees, career development, training,
18 warehouse. Quite a broad responsibility.

19 Q. About how many people did you manage?

20 A. In Washington?

21 Q. Yes.

22 A. Direct reports or total as a team?

23 Q. Well, let's do both. Direct reports.

24 A. Usually -- okay. Can you give me the time
25 frame once again just -- so you're talking about in

1 between 2009 and 2011?

2 Q. Yes.

3 A. I'd say there was roughly six direct
4 reports, and roughly at the time -- I'll say roughly
5 275 total employees in the group.

6 Q. And about how many of those people were
7 installers, cable installers?

8 A. The majority. I wouldn't be able to give
9 it a number, but it's the majority.

10 Q. So how many cable installers does DirecTV
11 employ nationwide? Do you have any idea?

12 MR. KELLY: Objection, relevance. Instruct
13 the witness not to answer. We're talking about joint
14 employment allegations with respect to a single
15 contractor called AIS W-2's.

16 MS. DOHERTY: Counsel --

17 MR. KELLY: Let me just say it.

18 MS. DOHERTY: -- you can concisely state
19 your objection.

20 MR. KELLY: I am stating my objection,
21 making a record. DirecTV's W-2's are not relevant to
22 this case, and certainly any issue outside of
23 Washington is not relevant to this case.

24 Q. Are you taking your counsel's instruction
25 not to answer?

1 MR. KELLY: We'll stipulate that if I
2 instruct him not to answer he will not answer.

3 Q. Yes? You're taking your counsel's
4 instruction not to answer?

5 A. Yes.

6 Q. So I want to talk about the cable
7 installers that DirecTV has working for DirecTV in
8 house, so the majority that you mentioned.

9 MR. KELLY: We're not going to testify
10 about DirecTV W-2's. I'm going to instruct him not to
11 answer any questions about W-2s because it's
12 irrelevant. This case concerns joint employment
13 allegations with respect to AIS. We're here to talk
14 about AIS, not DirecTV.

15 Q. Are you taking your counsel's instructions
16 not to answer?

17 A. Yes.

18 MR. LAKE: Off the record.

19 MS. DOHERTY: We'll go off the record for a
20 moment.

21 (Off the record from 9:12 to 9:16 a.m.)

22 Q. Let's talk about AIS. When did you first
23 become aware of AIS?

24 A. I wouldn't remember the date specifically,
25 but it was in the time frame in which we were

1 discussing between 2009 - 2011. I wouldn't remember
2 the date.

3 Q. And who is AIS?

4 A. It stands for Advanced Information Systems.
5 They're a subcontractor for our Seattle operations.

6 Q. And why does DirecTV use subcontractors for
7 your Seattle operation?

8 A. We use them for overflow of existing work
9 orders. Work orders fluctuate in volume. So -- and
10 during seasonal periods. So it's necessary to be able
11 to meet customer demands and maintain our quality
12 standards by having the right amount of people
13 available to do installs and services.

14 Q. So you mentioned seasonal work. What do
15 you mean by that?

16 A. Customers buy differently at different
17 times of the year.

18 Q. Why is that?

19 MR. KELLY: Technically it calls for
20 speculation, but you can answer.

21 A. I would say that there's a few times of the
22 year where our promotions are more aggressive. We're
23 a sports company. A lot of our play is sports, during
24 sports seasons, the key sports scenes especially. I'm
25 sure our business in Seattle will be busy this year,

1 but typically --

2 MR. KELLY: The Mariners.

3 A. But seasonal trending just based on, you
4 know, customer buying patterns, in our industry to be
5 seasonal.

6 Q. And about how many installers were working
7 for AIS in the 2009 period? Do you recall?

8 A. I do not.

9 Q. How did you find AIS?

10 MR. KELLY: Vague and ambiguous.

11 Q. How did DirecTV first find AIS?

12 MR. KELLY: You mean how they developed the
13 relationship with them? I think that's what she's
14 asking.

15 A. I don't recall when I met them specifically
16 or how they were introduced to me. Yeah. I don't
17 remember when or how we were introduced. It was
18 through one of the offices that mentioned that they
19 had a potential contractor that was interested. So --
20 but specifics on dates or time frames I wouldn't know.

21 Q. Is there anything that would help you
22 recall?

23 A. I don't know.

24 Q. You mentioned Ray Martinez earlier.

25 A. Uh-huh.

1 Q. I believe he was the owner or is the owner
2 of AIS?

3 A. He is at present, yes.

4 Q. Prior to him was there a different owner
5 you dealt with?

6 A. I believe it was co-owned by Mr. Martinez
7 and one other individual. His name is Mike Lair.

8 Q. Did you meet with these men?

9 A. Uh-huh.

10 Q. And tell me about those meetings. Maybe
11 we'll start with the first meeting that you recall.

12 A. I don't really recall a first meeting. We
13 would have periodic meetings on a relatively
14 infrequent basis.

15 Q. And by "relatively infrequent," I mean,
16 what's your best estimate of how frequent those
17 meetings were?

18 A. I would say sometimes once every other
19 month, once quarterly. At times they would be more
20 frequent based on need, but it wasn't an extensive
21 amount of time that we spent together.

22 Q. And where would those meetings take place?

23 A. Usually at our field office.

24 Q. Where is that?

25 A. At the time it would have been in -- at the

1 time in Lynnwood, Washington or in Lacey, Washington.

2 Q. When you say "our field office"?

3 A. I mean DirectTV's home services field
4 offices.

5 Q. And as best you can recall, what was the
6 general nature of those meetings?

7 A. Without reference to a specific meeting
8 subject, I wouldn't recall.

9 Q. Why were you meeting with Michael and Ray?

10 A. To discuss basic business issues.

11 Q. Such as?

12 A. Staffing. Forecasting what our work was
13 going to be in future months. Compliance data.
14 Things of that nature.

15 Q. Were you involved in contracts, written
16 contracts, with Ray Martinez or Michael Lair, drafting
17 or negotiating contracts?

18 A. Was I involved in the contract with
19 DirecTV?

20 MR. KELLY: Between DTV and --

21 Q. Between DirecTV and Mr. Martinez or Mr.
22 Lair.

23 A. I'm sorry. In the constructs of those
24 contracts or are you talking about -- I'm sorry, I
25 just don't understand the question.

1 Q. Sure, sure. Let me phrase a better
2 question. Were you involved in negotiating the terms
3 of the contracts with --

4 A. No.

5 Q. Were you involved in the execution of the
6 contracts? In other words, did Michael or Ray sign
7 the contracts in your presence?

8 A. No.

9 Q. Who was involved in creating those
10 contracts?

11 A. I don't know.

12 Q. You mentioned that you reviewed a contract
13 between DirecTV and AIS before coming today. What was
14 that contract?

15 A. The contract signed by AIS from -- with
16 DirecTV.

17 Q. When was the first time you saw that
18 contract?

19 A. I don't recall the first time. It's -- if
20 I saw it before last Tuesday when I met with my
21 lawyers. I don't recall if that's the last time I've
22 ever seen it, the first time I remember actually
23 looking at their specific contract.

24 Q. Who at DirecTV was involved in drafting or
25 negotiating that contract?

1 A. I do not know who at the company wrote it.
2 I don't know who wrote it.

3 Q. Let's talk about the installers working for
4 AIS.

5 A. Okay.

6 Q. Did you meet installers working for AIS at
7 any time?

8 A. Not -- I don't recall ever meeting an
9 installer for AIS.

10 Q. So, do you only recall dealing with Ray
11 Martinez and Michael Lair?

12 A. Lair, and perhaps some of his front line
13 leadership, but not the techs.

14 Q. How many -- approximately how many
15 installers, say during a busy period, would AIS have
16 working for DirecTV customers?

17 MR. KELLY: Asked and answered, but you can
18 answer.

19 A. I would say in a -- well, first of all, it
20 would depend on the seasonal -- what time of year. It
21 would depend on how much volume was coming in, whether
22 or not we were under or over forecast. I wouldn't
23 want to speculate on a number because I don't really
24 recall. It's been quite a while since I was with that
25 group. But, so, you want to know specific numbers on

1 how many would be working at any given time on
2 average?

3 Q. Sure.

4 A. I just wouldn't want to guess. So, I guess
5 I wouldn't know the number.

6 Q. Well, can you estimate the high end during
7 a busy season?

8 A. I could estimate between 15 and 20 to 25 at
9 the most.

10 Q. And at a slow time what would be your
11 estimate?

12 A. Roughly 15 to 20.

13 Q. So the same number of people during slow
14 and busy times?

15 MR. KELLY: Mischaracterizes the witness's
16 statement. He said it was 15 to 20 to 25 in busy
17 periods.

18 Q. So, again, during a slow period of time,
19 approximately how many people cable installers --

20 A. Estimated to be 15 to 20.

21 Q. How did AIS pay their installers?

22 A. I have no idea how they pay their
23 installers.

24 Q. How did DirecTV pay AIS?

25 MR. KELLY: Objection. Irrelevant. We've

1 had conversations between counsel on the lack of
2 relevance. Instruct the witness not to answer.
3 Financial privacy, among other reasons.

4 Q. Are you taking your attorney's instruction
5 not to answer?

6 A. Yes.

7 MS. DOHERTY: I'm going to show you a
8 document.

9 (Marked for identification Exhibit 1.)

10 Q. Does this look familiar to you?

11 A. Yes.

12 Q. What is it?

13 A. It's a rate matrix for the tier N-2
14 subcontractor.

15 Q. What does that mean tier N-2?

16 A. It's a classification of pay paid to a
17 certain contractor.

18 Q. Is that a DirecTV classification?

19 A. Yes.

20 Q. How many --

21 A. It's a term that we would use.

22 Q. How many different tiers are there?

23 A. I don't know.

24 Q. Do you have any estimate?

25 A. There's a handful. Maybe five.

1 Q. And how many different subcontractors did
2 you work with in the Seattle area?

3 A. Two over the course of five years.

4 Q. And other than AIS, who did you work with
5 as a contractor?

6 A. I'm trying to remember his name. It's a
7 very small operation in our Lacey operation, not in
8 our Seattle operation. I can't recall the name of the
9 company.

10 Q. Did you work with individual installers as
11 subcontractors?

12 A. No.

13 Q. So just so that I'm clear, you only recall,
14 in five years, working with AIS and one other
15 subcontractor?

16 MR. KELLY: Mischaracterizes. He said the
17 other company was in Lacey, not Seattle.

18 Q. In Washington state you only recall working
19 with AIS and one other subcontractor?

20 A. That's who I recall. Now, I'll say that
21 there may have been a couple of other companies very
22 early on that were found to be not compliant with the
23 state in terms of licensing. And so there was a
24 merger and some companies decided to fold the tent,
25 but that was very early in the process. 95 percent of

1 our interactions with subcontractors during that time
2 period was with those two.

3 Q. And early in the process, you mean like
4 what years, approximately?

5 A. 2008 to 2009.

6 Q. Were you personally involved in any of
7 those state investigations?

8 A. No.

9 Q. When did you become aware of them?

10 A. I don't recall specifically.

11 Q. Did you have any concern about them?

12 MR. KELLY: About the investigations or the
13 contractors? You said "them."

14 Q. Did you have any concern about the
15 Washington state investigation?

16 A. For -- can you sort of expand on your
17 definition of "concern"? Concern for and how?

18 Q. Sure. When you learned that Washington
19 state was investigating contractors that DirecTV was
20 working with, or planned to work with, were you at all
21 worried that there were some legal issues?

22 A. I was concerned there were state compliance
23 issues with them, yes.

24 Q. And did you take any steps to learn more
25 with the contractors about the state compliance

1 issues?

2 A. No. I informed them that we were aware of
3 them, and that, under the terms of the contract,
4 they're required to be in compliance with all state
5 and federal laws. So it was their issue to deal with.

6 Q. You mentioned "under the terms of the
7 contract." So, you did have discussions about the
8 contract?

9 A. I didn't have discussions about the
10 contract. I'm saying that under the terms of the
11 contract, all contractors are required to comply with
12 state and federal laws, and that, based on that, they
13 had to address those issues and become compliant.

14 Q. Okay. Getting back to this sheet. Can you
15 describe for me what is on here?

16 A. You would see payouts that would be paid to
17 AIS as a company, and a number of line items, three of
18 which are work order type: install, upgrade, and
19 service, and a dollar value for each one of those, as
20 well as a series of other miscellaneous labor line
21 items that they encounter at times during the course
22 of work.

23 Q. For example, what's one of those labor line
24 items?

25 A. Any of them?

1 MR. KELLY: I think she said -- she was
2 just asking you to pick one.

3 Q. Yeah. Give me an example of one.

4 A. So, Ka/Ku labor.

5 Q. What does Ka/Ku stand for?

6 A. "Ka" and "Ku" are two bands of satellite
7 broadcast technology. So it's not an acronym. But
8 it's the -- the Ka/Ku is known as our high definition
9 satellite dish.

10 Q. So, this Ka/Ku labor listed at \$22, can you
11 give me more detail about what that is or what that
12 indicates?

13 A. That they have installed a Ka/Ku system.

14 Q. And so just above that, under "Truck Roll"
15 "Install" is listed. So if they had installed a Ka/Ku
16 system, would there be both the \$22 and a \$65 --

17 A. If there were two line items on the work
18 order that called for both of those, yes.

19 Q. Who set these rates?

20 A. I don't know.

21 Q. Do you have any possible idea?

22 A. No. I was not involved, in any way, in the
23 discussion with the creation of the rates.

24 Q. Are you aware of a department or a person
25 who takes care of those -- of these things, of rate

1 setting?

2 A. I'm aware -- I mean, the finance team, I
3 would imagine, but I would not know with any certainty
4 who created this specifically.

5 Q. Where is your finance team located?

6 A. Denver, Colorado.

7 Q. And do you know how many people are on the
8 team?

9 A. Not exactly. Not really. I be wouldn't be
10 able to estimate probably very accurately.

11 Q. Can you name a single person who is on the
12 team currently?

13 A. Steven Tucker.

14 Q. And has he been on the team for some time?

15 A. No. He's relatively new.

16 Q. When would you say he joined,
17 approximately?

18 A. I would say probably five months ago
19 perhaps.

20 Q. So during the period 2009 to 2011, are you
21 aware of any person on the finance team who might have
22 been involved in setting these rates?

23 A. Without knowing specifically that they've
24 participated in it, I would not know.

25 Q. Can you name any person who was on the

1 finance team in -- between 2009 and 2011?

2 A. Ed Balcerzak.

3 Q. Anyone else?

4 A. Trevor Steinmark. That's really all I
5 can...

6 Q. That's all --

7 A. All I can recall, right.

8 Q. So does DirecTV change the amounts paid to
9 subcontractors depending on the services provided?

10 MR. KELLY: Vague and ambiguous. Are you
11 asking do they pay different rates for different
12 services or do the rate themselves change?

13 MS. DOHERTY: I'll rephrase the question.

14 It wasn't a great question.

15 Q. The rates here are the rates that DirecTV
16 had provided to AIS. Did DirecTV provide different
17 rates to the other contractor you mentioned?

18 A. I don't recall.

19 Q. Did DirecTV have rates that were different
20 for its in-house installers?

21 MR. KELLY: It doesn't make sense. You
22 haven't established that they had rates for a W-2.

23 Q. How does DirecTV pay its in-house
24 installers? On a salary basis?

25 A. They're paid on a piece rate basis.

1 Q. On a piece rate basis. And this rate
2 scale, as I understand it, indicates the piece rate
3 basis also?

4 MR. KELLY: Vague and ambiguous.

5 Q. Is that true?

6 MR. KELLY: Vague and ambiguous. You're
7 using the term "piece rates" synonymously with respect
8 to how an entity pays its techs as opposed to how an
9 entity pays a contractor. I just want counsel to be
10 clear on it.

11 Q. Do you understand my question?

12 A. Could you repeat, please.

13 Q. Does DirecTV pay a different piece rate to
14 its in-house installers than what it paid to AIS
15 installers?

16 MR. KELLY: Assumes a fact not assented to
17 by the witness. DTV never paid AIS's techs.

18 Q. Do you understand my question?

19 MR. KELLY: It's argumentative. It assumes
20 a fact he hasn't assented to. That's the objection.
21 If you're referring to the rates that are set in
22 Exhibit 1, I have no problem with the question.

23 Q. If you understand my question, you can
24 answer it.

25 A. I do not know the differentiation between

1 the two, between this specific rate part and our
2 specific rates. I just don't know them.

3 Q. Are there different piece rates for
4 in-house installers?

5 A. Without knowing -- without having that
6 document in front of me, I don't know.

7 Q. Does DirecTV have any information on how
8 much time it should take an installer to complete one
9 of these tasks?

10 A. We have assigned durations to jobs that are
11 estimated times to complete.

12 Q. And who sets those?

13 A. I'm not sure who sets them as a specific
14 person. I'm trying to think what group would do it,
15 but in our field service group in Denver there's a
16 group that focuses on it. I don't know who is in that
17 specific group.

18 Q. Do you know if consideration is given to
19 whether the rates paid per task comply with minimum
20 wage requirements?

21 A. The --

22 MR. KELLY: Wait a minute. Can you just
23 read the question back.

24 (Record read as requested.)

25 MR. KELLY: Can you just step out for a

1 quick second.

2 MR. LAKE: Let's go off the record.

3 (Discussion off the record.)

4 MS. DOHERTY: I'll ask the court reporter
5 to read the question back again.

6 (Record read as requested.)

7 THE WITNESS: On this card here
8 (indicating)?

9 MR. KELLY: I think that's what she's
10 referring to.

11 THE WITNESS: She's referring to this
12 (indicating).

13 Q. Well, let's start with this.

14 A. I don't know the answer to the question
15 because I have not been involved in the setting of
16 these rates. And I wouldn't want to speculate. I
17 apologize, but I just wouldn't want to speculate.

18 Q. And you also weren't involved in the
19 setting of time estimates you mentioned previously?

20 A. That's correct. That's correct.

21 Q. And you don't recall who was involved in
22 that?

23 MR. KELLY: He mentioned something about
24 field services.

25 Q. Do you recall any people who were involved

1 in setting time estimates for tasks?

2 A. Specifically involved in that project, no.

3 Q. Was it someone who reports to you?

4 A. No.

5 Q. Was it someone located in Colorado?

6 A. Probably. The group is located in

7 Colorado.

8 Q. So when you were regional director of

9 operation in Washington, or overseeing the operations

10 here, what was your day to day like?

11 A. So, my schedule, so to speak, or a day in

12 the life of for me would usually involve travel.

13 Usually on the road anywhere from two to four days out

14 of the week. Usually visiting a field office.

15 Meeting with my internal site managers, their field

16 supervisors, their trainers, their warehouse people.

17 Their quality assurance technicians. Looking at

18 their, you know, their performance. Looking at their

19 leadership styles. Looking at the construct of their

20 coaching sessions with their employees. I spend a

21 good bit of time with leadership development with the

22 front line leaders, for sure, and various other topics

23 as needed.

24 Q. So, with respect to AIS, how often did you

25 visit their sites in Washington state?

1 A. I don't recall -- I don't recall ever being
2 there, but if I was it might have been one time, and
3 I'm trying to recall specifically. But extremely
4 infrequent to almost never.

5 Q. Were there people working for you, or under
6 you at DirecTV, who would visit those AIS field
7 offices more frequently?

8 A. Yes.

9 Q. And who were those people?

10 A. Traditionally it would be our field -- our
11 tech supervisors in the field that would visit their
12 facility for purposes of inventory control. It's
13 usually on a monthly basis. Those visits are
14 documented by inventory manifests. They would also
15 occasionally come by and provide information on new
16 proprietary technological information or new products
17 that were coming up. But that was the extent of their
18 personal interaction there.

19 Q. You mentioned the monthly visits were
20 documented by inventory manifests. What are inventory
21 manifests?

22 A. It's just a list of what is on an
23 individual's truck or in the warehouse, and they're
24 counting to verify. We're looking to make sure that
25 the work orders that have been consumed have the right

1 inventory. And so that the customers have the right
2 inventory and we can obviously work through any
3 accounting issues that go along with that.

4 Q. Can you recall the names of any tech
5 supervisors who were under you in Washington?

6 MR. KELLY: In this 2009 or 2011 time
7 frame?

8 MS. DOHERTY: 2009 to 2011 period.

9 A. Bronsom Bloom. Spencer Dennis. I might
10 miss with the time frame a little bit, so pardon me if
11 it's outside that 12 --

12 THE WITNESS: Ending in 2011, correct?

13 MR. KELLY: That's her frame of reference.

14 A. I'm thinking more recent, and I'm stepping
15 back.

16 Q. If you can recall more recent names that's
17 fine, too. People in Washington state.

18 A. Sure. Joshua Dart.

19 Q. D-A-R-T?

20 A. Yes, ma'am. Tony Monisse. L. J. Rowe.
21 Derek Warner. Jessie Heck.

22 Q. How often did you interact with these tech
23 supervisors?

24 A. On a regular basis.

25 Q. And by "regular" you mean?

1 A. Any time I would visit a field office I
2 would interact with them. Usually meet with them,
3 either on an individual basis or as a group.

4 Q. And what would you discuss with them with
5 respect to AIS?

6 A. As a group I wouldn't speak to them about
7 AIS. Those meetings are set with the intention of
8 understanding where our internal operation is and how
9 we're doing. It's usually surrounded around how --
10 the performance of our W-2 employees and the
11 leadership practices that they're taking to provide
12 better leadership for those employees. So, extremely
13 little discussion with the supervisors about AIS.

14 Q. And by "employees" who are you referring
15 to?

16 A. Our internal tech supervisors and site
17 managers, in the context of this question.

18 Q. And so when you were talking with some of
19 these tech supervisors you previously identified, and
20 discussing with them employees, who were you referring
21 to by saying "employees"?

22 A. Our W-2 technicians. DirecTV's in-house
23 technicians.

24 Q. When these site managers or tech
25 supervisors -- are those used interchangeably?

1 A. No. They're not the same person.

2 Q. Oh, they're not?

3 A. No.

4 Q. So who are the --

5 A. So in an org chart I'm the director, but
6 below me is direct reports or site managers, right, to
7 run the facility itself. Below them are the tech
8 supervisors who are responsible for a certain
9 percentage of the office's tech team. So it's usually
10 split evenly among the number of supervisors.

11 Q. And the site managers, are you referring to
12 DirecTV sites? What are the sites you're referring
13 to?

14 A. The physical field location where -- the
15 offices of the field location for that given -- what
16 we call a DMA or designated market area.

17 Q. And what happens at those field locations?

18 A. Well, it's the general support location
19 for, you know, that group of people. There's a
20 warehouse. There's training facilities. There's, you
21 know, vehicles there that are either in the course of
22 being repaired, whatever, but typically it is a place
23 where the management reports to work and where techs
24 pick up inventory before going out.

25 Q. And were there two of those locations --

1 A. In the Seattle market, yes, there was.

2 MR. KELLY: Let her get her question out.

3 THE WITNESS: Sorry, I apologize.

4 Q. Two locations in Seattle?

5 A. One location in Lynnwood, one location in

6 Lacey, which is more closer to Olympia. And I should

7 clarify that the Lacey office also had another

8 facility in that time frame in the Tumwater area. So

9 it's the same people, it's the same operational group.

10 They just moved to a different building. I don't

11 recall when they moved but --

12 MS. DOHERTY: I think we'll take a break

13 right now. Take a 10-minute break and regroup.

14 (Off the record from 9:50 to 10:07 a.m.)

15 MS. DOHERTY: We're back on the record.

16 Q. Going back to something you mentioned

17 earlier about meeting with AIS front line people. Who

18 were you referring to?

19 A. Ray.

20 Q. Ray Martinez?

21 A. Right.

22 Q. Anyone else?

23 A. He may have had one of his leadership

24 supervisors with him. I don't recall their names.

25 Q. And you also mentioned earlier, forecasts,

1 forecasting work, I think, with respect to seasonal
2 needs. Can you elaborate a little on that?

3 A. Well, I don't personally do the
4 forecasting. I don't know who personally does it, but
5 they project how many work orders that we are going to
6 need to fulfill through the course of the year.

7 Q. Do you have any idea what division of
8 DirecTV does forecasting?

9 A. No.

10 Q. During, let's say, a busy season in
11 Washington state -- and I'm talking about the whole
12 period of time that you were overseeing work in
13 Washington state, not just the '09 to '11 period.
14 During the busy season what percentage of cable
15 installation work was being done by AIS?

16 A. It would vary.

17 MR. KELLY: Technical objection. It's not
18 cable installation. It's satellite TV, but you can
19 answer.

20 A. It would vary. Based on their staffing
21 levels, based on, you know, whether or not they had
22 hit their own personal forecast. So I would have to
23 estimate that it's relatively low. I would say
24 between nine and 10 percent. Eight to 10 percent.

25 Q. And during a less busy period what would

1 your estimate be as to how much of a percentage of
2 work?

3 A. Probably a percentage point or two
4 decrease.

5 Q. These seem like pretty low percentages.
6 Why wouldn't DirecTV have its own installers handle
7 this work?

8 MR. KELLY: Objection. It's argumentative.
9 Do not answer. You can rephrase.

10 MS. DOHERTY: You can simply state your
11 objections. That's all.

12 MR. KELLY: I did, I did. You can answer.

13 Q. Did you understand my question?

14 A. Go ahead and ask it again.

15 MS. DOHERTY: Could you please read the
16 question.

17 MR. KELLY: Why wouldn't DTV have its own
18 people --

19 MS. DOHERTY: The reporter will read the
20 question.

21 (Record read as requested.)

22 MR. KELLY: Objection. Question is
23 argumentative as phrased.

24 A. We have a set amount of work. Now and
25 again that number could fluctuate by a percentage

1 point or two. We have a specific amount of percentage
2 of our work that we want to be in house. And we think
3 contractor relationships are beneficial. So, taking
4 100 percent of all work in the market is an expensive
5 proposition for us.

6 Q. Is it cheaper for DirecTV to use
7 contractors such as AIS?

8 A. It is.

9 Q. Why doesn't DirecTV use more of them? You
10 can answer the question.

11 A. In Seattle specifically during this time
12 period?

13 Q. In Washington, yeah.

14 A. We've struggled, over the course of the
15 years, to find contractors that would take the
16 responsibility associated with being a contractor in
17 Washington. It's quite difficult. It's also a very
18 difficult market to do the work.

19 Q. When you say it's difficult can you
20 elaborate?

21 A. Sure. In order for us to successfully
22 complete an install you have to have line of sight to
23 our satellites. Every -- wherever you go there's a
24 fixed position that you have to adjust that to.
25 Seattle has one of the most difficult angles to be

1 able to see it, first of all. It's a very, very
2 narrow angle.

3 It's also very difficult when you add that
4 plus forest coverage, which obviously gets in the way
5 a lot. Very difficult when -- and if you're working
6 in multi-dwelling units or apartments because
7 someone's sight can't see it, right, and the more of
8 those you have the more difficult it is. So it's
9 quite a challenge in this part of the country.

10 Q. Aside from AIS, you mentioned another
11 contractor whose name you couldn't recall, the only
12 other contractor DirecTV worked with in this area.
13 What percentage of the work, approximately, would you
14 say they took care of?

15 A. Small percentage. Maybe five percentage of
16 the work in Lacey, give or take.

17 Q. Has DirecTV considered hiring more
18 installers for this area?

19 MR. KELLY: It's beyond the scope.
20 Involves companies --

21 MS. DOHERTY: You can state your objection.

22 MR. KELLY: It's proprietary information.
23 Instruct the witness not to answer what their business
24 plans are.

25 Q. Are you taking your attorney's instruction

1 not to answer?

2 A. Yes.

3 Q. From a business perspective, do you think
4 it would benefit DirecTV to hire more installers?

5 MR. KELLY: Objection. Calls for
6 speculation. Outside the scope. His opinion is
7 irrelevant to any issue in the case.

8 Q. You can answer the question.

9 MR. KELLY: Instruct the witness not to
10 answer.

11 Q. Are you taking your attorney's instruction
12 not to answer?

13 A. Yes.

14 Q. When you talk about struggling to find
15 contractors in this area, can you describe what you
16 mean by that?

17 A. There hasn't been an extensive amount of
18 interest.

19 Q. Did you personally look into finding more
20 contractors in this area?

21 A. Yes.

22 Q. And what did that process involve?

23 A. Speaking with people that had the potential
24 to become -- to relocate their business or open their
25 business here. After learning all the variables

1 involved, they opted to not come work here

2 Q. And have you spoken to individuals who are
3 subcontractors with DirecTV in this area?

4 MR. KELLY: I'm not clear. Are you talking
5 about owners of a company such as AIS or techs when
6 you say people?

7 Q. Do you understand my question?

8 A. No.

9 Q. Have you spoken to individual non-AIS
10 contractors in this area about doing installation
11 work?

12 A. And the time frame?

13 Q. The whole time that you oversaw Washington
14 operations.

15 A. I spoke to companies that were interested
16 in potentially coming to this area, but none of those
17 discussions ever resulted in us getting additional
18 contractors here.

19 Q. And why was that?

20 A. I can't tell you. I don't know.

21 Q. Do you have any idea why?

22 A. I don't know why they decided not to
23 participate here.

24 Q. Did they give you any indication of why
25 they weren't interested in working with DirecTV?

1 A. No.

2 Q. Let's talk about the AIS installers. Can
3 you tell me, what kind of training did AIS installers
4 receive from DirecTV?

5 A. We don't train AIS's installers. AIS
6 trains their installers.

7 Q. Does DirecTV provide any materials to AIS
8 for training purposes?

9 A. Materials are available to subcontractor
10 principals that can then use those materials to teach
11 their employees.

12 Q. What kind of materials?

13 A. Materials associated with the proprietary
14 technology that they'll be installing.

15 Q. Can you describe these materials; for
16 example, written materials, videos, other?

17 A. There are written materials. There are
18 videos.

19 Q. Anything else?

20 A. No, not that I know of.

21 Q. Are there DirecTV personnel who are
22 available to train AIS or other installers?

23 A. We don't train AIS's techs.

24 Q. Are you familiar with the materials that
25 you mentioned, the video and written materials?

1 A. There's a lot of materials, but I know
2 generally. I'm generally familiar.

3 Q. Were these materials provided to AIS?

4 A. They were available to AIS. Whether they
5 went and got them I don't know the answer to that.

6 Q. The supervisors, the tech supervisors you
7 mentioned before, the DirecTV tech supervisors, how
8 often would they go on site to AIS, approximately?

9 A. I mentioned previously that the nature of
10 their visit is usually on a monthly basis for
11 inventory control purposes and, on occasion, give
12 updates. Provide updates on new proprietary
13 technology that we offer. So, very infrequent.

14 Q. Do you know if these site supervisors
15 attended training sessions at AIS?

16 A. I do not.

17 Q. Do you know if these site supervisors ever
18 rode along with AIS technicians?

19 MR. KELLY: Objection. In your last two
20 questions, counsel, I think you were talking about
21 field supes, and then you started talking about site
22 supervisors. Can we just make sure we're using the
23 terms synonymously? I don't think we are. You've
24 talked about both titles today.

25 Q. So I understand there are site managers and

1 there are tech supervisors.

2 MR. KELLY: Those are the terms you've
3 used.

4 MS. DOHERTY: Those are the terms provided
5 to me by the deponent.

6 Q. Now, your counsel has just mentioned field
7 supervisors. Are field supervisors different from
8 site managers or tech supervisors?

9 A. They're different from site managers. So,
10 again, hierarchy would be, say from an org chart,
11 myself, site manager, tech supervisor.

12 Q. Is a field supervisor anonymous with a tech
13 supervisor?

14 A. It is.

15 MR. KELLY: Thank you.

16 Q. You mentioned Joshua Dart. And Joshua Dart
17 was a tech or field supervisor?

18 A. Yes.

19 Q. So, for example, Joshua Dart, would he ever
20 sit in on training -- sorry. I think we were talking
21 about ride-alongs. Would he ever ride along with an
22 AIS cable installer?

23 A. No.

24 Q. Would other field supervisors ride along
25 with installers?

1 A. That is not their instruction.

2 Q. Would they ride along with installers?

3 A. No. To my knowledge, no.

4 Q. Were they forbidden from riding along with

5 installers?

6 A. Yes. With AIS installers.

7 MR. KELLY: I think that's -- all questions

8 related to AIS?

9 MS. DOHERTY: Right.

10 MR. KELLY: Thank you.

11 A. With AIS, yes.

12 Q. So, would field supervisors ride along with

13 DirecTV installers?

14 A. Yes.

15 Q. And why would they?

16 A. For the purpose of mentorship, reviewing

17 their work, giving them opportunities for improvement.

18 Complimenting them when they see something done well.

19 Having a better relationship between them and their

20 subordinates.

21 Q. When AIS installers were doing an

22 installation, were they required to contact DirecTV

23 field supervisors?

24 A. No.

25 Q. Who were they required to contact?

1 A. So for what purpose?

2 Q. When direct -- sorry. When AIS installers
3 were in the field, were they required to contact any
4 DirecTV personnel?

5 A. In specific circumstances, yes.

6 Q. What are those specific circumstances?

7 A. Okay. So if there's a work order that is
8 incorrect -- for example, the work order that they
9 have doesn't match what the customer ordered -- they
10 would be required to contact the group that would then
11 modify that work order so that they could complete the
12 job.

13 Q. Were there other specific circumstances?

14 A. If they were unable to activate a work
15 order through traditional methods, through the box
16 itself, there's a group that they could call to do
17 that. So it's -- the only support they would receive
18 is administrative support.

19 Q. Were there other specific circumstances?

20 A. Without knowing specifically about the
21 situation, I wouldn't know how to answer.

22 Q. Let's say an AIS installer goes to a site.
23 When they arrive on site, are they required to contact
24 DirecTV?

25 A. To -- in order to -- they traditionally

1 contact an organization that says, yes, I'm here,
2 click. The work order is complete. Yes, it's
3 complete. I'm going to the next one. Right.

4 Q. You mentioned an organization.

5 A. Uh-huh.

6 Q. What do you mean by that?

7 A. A group within DirecTV.

8 Q. So upon arrival on site they contact a
9 group within DirecTV; correct?

10 A. They could either contact their supervisor
11 or they can contact the number directly.

12 Q. When you say "their supervisor" --

13 A. Their supervisor for AIS.

14 Q. You're talking about an AIS supervisor
15 separate from a DirecTV field supervisor?

16 A. I'm confused. Are you talking about a
17 DirecTV supervisor -- or technician or an AIS
18 technician?

19 Q. I'm talking about AIS technicians at this
20 point. So when an AIS technician arrives on site,
21 they either contact a group within DirecTV or a field
22 supervisor?

23 MR. KELLY: Mischaracterizes testimony.

24 You can clarify it because we're using the term "field
25 supervisor".

1 MS. DOHERTY: Your objection is noted. Can
2 we go back, please, to where Mr. King was responding
3 and referencing "field supervisor." Contacting a
4 field supervisor." Could you please read that.

5 (Record read as requested.)

6 Q. So talking about AIS installers arriving on
7 site -- and I'm only talking about AIS installers at
8 this point. When they arrive on site you said they
9 can either contact their group -- a group at DirecTV
10 or a field supervisor. And when you say "field
11 supervisor," are you referring to a DirecTV field
12 supervisor --

13 A. No.

14 MR. KELLY: Let her get the question out
15 and then you can answer.

16 Q. -- or an AIS field supervisor?

17 A. AIS supervisor. My apologies.

18 Q. So when AIS installers arrive on site, they
19 have an option of whom to contact. They're not
20 required to contact DirecTV.

21 A. I don't know how to answer that question
22 because I don't know what specific instructions
23 they've been given. So, they're required to let us
24 know when they're on the job, and they're required to
25 contact us if they had a work order issue that they

1 can't resolve themselves.

2 Q. Are they required to let you know when they
3 finish the job?

4 A. Yes.

5 Q. I understand DirecTV maintains a database
6 of AIS installers?

7 A. Uh-huh.

8 Q. What's in that database?

9 A. There will be a tech number assignment per
10 technician that has a skill set, the days that they're
11 working, and the start location geographically where
12 they will be working.

13 Q. Who maintains this database of AIS
14 installers?

15 A. I don't know.

16 Q. Who inputs the information?

17 A. I don't know.

18 Q. The geographic information that's in there,
19 is that maintained on a daily basis?

20 A. I don't know when -- how often it's
21 maintained.

22 Q. And every day DirecTV sends work orders to
23 AIS?

24 A. Every day DirecTV sends volume work orders
25 to AIS.

1 Q. And what do you mean by "volume work
2 orders"?

3 A. A group of work orders. We do not send
4 individual work orders. They'll send them a group of
5 work orders that they have full discretion to be able
6 to make scrambled eggs of whenever they get them.

7 Q. And are these work orders assigned to
8 individual technicians when they leave DirecTV and go
9 to AIS?

10 A. No.

11 Q. Are the orders associated with individual
12 technicians?

13 A. Can you give me a little bit more color on
14 what you mean there?

15 Q. Well, what does a work order look like or
16 what does a work order involve?

17 A. Has customer name, customer address, the
18 equipment needed to be installed. It does have a tech
19 number in the corner.

20 Q. And a tech number is what?

21 A. A tech number is the number that is
22 relating to a technician.

23 Q. An AIS technician?

24 A. In the database, yes.

25 Q. And who assigns those tech numbers to work

1 orders?

2 A. The system assigns the work to ensure that
3 we don't over book our customer base for the day. So
4 the only purpose that would serve would be to make
5 sure that there is a known technician working that day
6 in the system, and that -- so that the number of work
7 orders booked for the day doesn't exceed the number of
8 technicians we have working, right. So that, however,
9 is irrelevant. When that is sent to AIS, AIS has full
10 and complete discretion to, like I said, make
11 scrambled eggs of those routes. And they do.

12 Q. So a machine assigns the tech numbers, not
13 a person, to the work orders?

14 A. A machine includes -- yes, as a part of the
15 work order process, the machine assigns it.

16 Q. So it sounds like DirecTV maintains
17 information about the days that AIS installers work?

18 A. Those days are provided to us by AIS.

19 Q. And are those days subject to change?

20 A. Yes.

21 Q. And how often did AIS, or does AIS, contact
22 DirecTV with changes?

23 A. I have no idea.

24 Q. Who would know that?

25 A. I don't know.

1 Q. Does DirecTV require AIS technicians to be
2 available to work on certain days?

3 A. We require AIS to be able to handle a
4 certain amount of volume. How they set up their own
5 operation is entirely up to them.

6 Q. And are DirecTV's requirements specific to
7 days?

8 A. Not specifically to days, but specifically
9 to work order volume per day.

10 Q. Are there some days that are busier than
11 others?

12 A. Yes.

13 Q. What are those days?

14 A. Saturdays usually are busier days than a
15 Tuesday, but it can vary.

16 Q. And what happens if an AIS installer, for
17 some reason, becomes unavailable to work on a given
18 day?

19 A. If an AIS installer, say, calls in sick?

20 Q. For example.

21 A. I have no knowledge. That's not something
22 I see. It's managed entirely by AIS's leadership.

23 Q. Is there a contact at DTV who works with
24 AIS's leadership on those sorts of issues, staffing
25 issues?

1 A. That works with AIS's leadership?

2 Q. Yes.

3 A. No. You mean from -- excuse me. Can you
4 just rephrase the question?

5 Q. So if an AIS installer becomes unavailable
6 on a given date after a work order has gone out, say,
7 what happens from the DirecTV side?

8 A. Nothing happens from the DirecTV side.

9 They still own the work order and they still own the
10 responsibility to complete it.

11 Q. "They," AIS?

12 A. AIS, yes.

13 Q. Can you recall any incidents where there
14 was an issue of staffing that AIS did not resolve?

15 A. Could you give me a little bit more color
16 there, please.

17 Q. Yeah. Let's say the AIS installer suddenly
18 can't complete the work order for that day, and AIS
19 somehow couldn't find another installer to complete it
20 and brought it to DirecTV's attention. Did DirecTV or
21 does -- what would DirecTV do in that instance?

22 A. In that situation there would either be a
23 few things that would happen. A customer would be
24 either rescheduled or they would -- either that or
25 cancel their service. Or, if they had a problem with

1 being able to complete it, if we had people available,
2 they may give it back to us. But that rarely -- it
3 never happens.

4 Q. Have you ever gone out in the field with an
5 installer?

6 A. A DirecTV installer?

7 Q. A DirecTV installer.

8 A. Yes.

9 MR. KELLY: Are you asking DTV or now AIS?

10 MS. DOHERTY: We just clarified DirecTV
11 installer.

12 MR. KELLY: Thank you.

13 Q. Have you ever gone out in the field with an
14 AIS installer?

15 A. No.

16 Q. So when you went out in the field with the
17 DirecTV installer tell me what happened. Describe
18 your experience.

19 A. You arrive at the customer's home. We
20 knock on the door. We introduce ourselves. Identify
21 ourselves as a DirecTV. We review their work order.
22 We explain to them that we're going to be doing a
23 survey around the home to make sure that everything is
24 safe to be completed. We'll come back to them. Tell
25 them that we're ready to begin the installation. Do

1 the install. Provide customer education. Answer any
2 questions they may have. Go to the next one.

3 Q. And at any point do you recall contacting a
4 DirecTV office, a remote office?

5 A. Contacting a remote office?

6 Q. Yeah. Like we discussed with the AIS
7 installers, when they arrived on site they would call
8 a group at DirecTV. Do you recall doing that with
9 your DirecTV installer?

10 A. I do.

11 Q. When was that done?

12 A. At the beginning of the job and at the end
13 of the job.

14 Q. And then during the job did you make any
15 contact with DirecTV?

16 A. If necessary.

17 Q. The field supervisors we discussed earlier,
18 Josh, Bronson, Spencer, et cetera, tell me more about
19 their day-to-day activities.

20 A. They are in the office usually pretty
21 early. They're usually having meetings with their
22 tech teams in the morning, talking about various
23 issues. Helping them load their trucks. Helping them
24 get ready for the day. They'll send their techs --
25 once their team is out, they'll then handle probably

1 some small administrative responsibilities, e-mail,
2 what have you, and then go to the field for scheduled
3 field visits with their individual teams. Help them
4 along the way. Help them with their job. And, you
5 know, basically provide field support for their guys.

6 Q. And then when you talk about their teams,
7 are you specifically referring to DirecTV installers?

8 A. I am.

9 Q. How often would these field supers deal
10 with AIS installers?

11 A. Never.

12 Q. So, for example, Spencer Dennis would
13 provide no oversight to AIS installers?

14 A. No.

15 Q. And would have no reason to contact AIS
16 installers?

17 A. No.

18 Q. Did you have specific field supervisors
19 overseeing AIS installers?

20 A. No.

21 Q. Why not?

22 A. Because they're not employees.

23 Q. So, what about quality control issues? Did
24 you have concerns about the quality of work that AIS
25 installers were doing?

1 A. Yes.

2 Q. So what did you do about those concerns?

3 A. We have quality control technicians that
4 visit our internal technicians and external
5 technicians.

6 Q. So quality control technicians?

7 A. Uh-huh.

8 Q. Can you name a few of those quality control
9 technicians?

10 A. I would not remember them. I don't think
11 we even have them any more, but I don't recall.

12 Q. So the only DirecTV personnel that AIS
13 installers would be communicating with day to day
14 would be quality control technicians?

15 A. They would not communicate with them.

16 Q. AIS installers would not communicate with
17 quality control technicians?

18 A. Correct.

19 Q. What was the purpose of --

20 A. Quality control would come in after the
21 work order was completed, review the quality, whether
22 or not it meets standards, fill out a form and bring
23 it back.

24 Q. So when AIS installers were out in the
25 field doing work, at no time were they supervised by

1 DirecTV personnel?

2 A. At no time were they supervised by DirecTV
3 personnel, that's correct.

4 Q. And were any of the AIS installers
5 instructed to contact DirecTV field supervisors?

6 MR. KELLY: I'm sorry. Read the question
7 back, please.

8 (Record read as requested.)

9 MR. KELLY: You can answer.

10 A. No.

11 Q. As far as you know, did AIS installers have
12 contact information for any DirecTV personnel?

13 A. I don't know the answer to that.

14 Q. What other methods of quality control did
15 DirecTV use to ensure that AIS installers were doing a
16 certain level of work?

17 A. Other than the ones I've already
18 referenced?

19 Q. Yes. The quality control technicians you
20 referenced. Anything else?

21 A. No.

22 Q. Were DirecTV customers ever provided with
23 surveys?

24 A. With quality control?

25 Q. Surveys related to quality control.

1 A. To my knowledge, no.

2 Q. Were DirecTV customers provided with any
3 kind of survey by DirecTV?

4 A. With associate -- okay. So, unrelated to a
5 physical inspection of their system at home; correct?

6 MR. KELLY: She's asking about a survey.

7 Q. I'm asking if customers who had equipment
8 installed by an AIS installer, if those customers ever
9 received surveys?

10 A. They do.

11 Q. And tell me more about those surveys. How
12 do they get them?

13 A. There are phone surveys that calls and asks
14 them a series of questions as to how they would rate,
15 on a scale of 1 to 10, on the set of questions.

16 Q. And where is that information maintained?

17 A. I don't know where it's maintained today.

18 Q. Did you know at any time where it was
19 maintained?

20 A. I don't know where it's maintained inside
21 the company. We have it, obviously. I don't know who
22 maintains it or where it's maintained.

23 Q. Have you ever seen results from those phone
24 surveys?

25 A. I have.

1 Q. And what do those results look like?
2 A. Results for AIS specifically?
3 Q. Yes.
4 A. I don't know. I haven't seen their results
5 in years.
6 Q. So at some point you saw results for AIS
7 installers' work?
8 A. I have no recollection of their results.
9 Q. Are phone surveys done for DirecTV in-house
10 installers?
11 A. Yes.
12 Q. Are they the same phone surveys as are done
13 for AIS installers?
14 A. Yes.
15 Q. And have you seen the results of those
16 surveys?
17 A. Yes.
18 Q. In general, do the results of the AIS
19 installer surveys and the results of the DirecTV
20 installer surveys, were they similar or different?
21 A. Honestly, in the time frame we're
22 discussing, I can't even recall the variation between
23 the two.
24 Q. I'm talking now about the whole time that
25 you supervised in Washington. Not just a limited

1 period.

2 A. Right.

3 Q. You don't recall any differences?

4 A. Well, when you're looking at such a broad
5 period of time, you know, I mean, I would have no
6 recollection of whether they were high or whether they
7 were lower, whether they were significantly lower. I
8 typically spent my time looking at the totals and not
9 looking at the breakouts. So I wouldn't know.

10 Q. Do you have any recollection of differences
11 in performance between in-house installers and AIS
12 installers?

13 MR. KELLY: Vague and ambiguous as to
14 "differences in performance."

15 Q. You can answer the question.

16 A. I don't know of any glaring differences.

17 Q. Any minute differences?

18 A. I don't know what the differences were. I
19 don't recall what the differences were.

20 Q. Would you say that the performance
21 standards of AIS installers were about the same as the
22 -- I'm sorry -- the performance of AIS installers was
23 about the same as the performance of DirecTV in-house
24 installers?

25 MR. KELLY: Vague and ambiguous as to

1 "performance."

2 MS. DOHERTY: No speaking objections.

3 MR. KELLY: Sorry?

4 MS. DOHERTY: Please refrain from making
5 speaking objections.

6 MR. KELLY: I'm not going to. I'm going to
7 state my objection on the record. Vague and ambiguous
8 as to "performance standards." You can answer.

9 A. The expectations for results are the same.
10 Every customer should have the same experience.
11 Whether -- where AIS was in relation to my in-house
12 team at that time I can't recall.

13 Q. Did DirecTV provide performance standards
14 to AIS?

15 A. Can you elaborate on the definition of
16 "performance standards"?

17 Q. Did DirecTV provide requirements as to the
18 level of performance it expected AIS contractors to
19 meet?

20 A. In accordance with the contract, yes.

21 Q. Can you tell me more about those standards?

22 A. They're in the back side of the contract.
23 I think they're on pages 35 through 37, but they're --
24 there were numerous performance or compliance criteria
25 that AIS agreed to when they signed the contract with

1 DirecTV.

2 MS. DOHERTY: Let's take a look at the
3 contract. We'll mark it for identification. This
4 actually has Bates numbers on it already. By the way,
5 Joel, we appear to be missing page 1 of the contract.
6 So if you could get us out page 1 as soon as possible.

7 MR. KELLY: Can we just go off the record
8 for a second?

9 (Discussion off the record.)

10 (Marked for identification Exhibit 2.)

11 Q. Can you please look at page 4, on paragraph
12 F. This is paragraph 2f, "Policies and Procedures."
13 So, this paragraph references guidelines and policies
14 and procedures, or P&P, furnished a contractor. Can
15 you tell me more about these policies and procedures?

16 MR. KELLY: Please read the question back.

17 (Record read as requested.)

18 Q. Are you familiar with this term "policies
19 and procedures"?

20 A. I am. Just making sure I read this. Okay.
21 So, according to the contract, they've agreed to the
22 policies and procedures that we provide, that we have
23 for our internal employees. They're vast. I need to
24 know more specifically which policy you might be
25 interested in discussing because there's a lot of

1 them.

2 Q. Do you have a manual of policies and
3 procedures?

4 A. That's available to me, I do not have one
5 in hard copy, but they are maintained and updated over
6 time. And -- yeah, they're updated over time.

7 Q. Do these policies and procedures include
8 performance information?

9 A. Under a standard P&P -- that's a tough
10 question. I would have to know more about which
11 specific policy you were discussing before I could
12 answer.

13 Q. Do you know if a copy of the policies and
14 procedures were provided to AIS?

15 A. I do not.

16 Q. If there were customer complaints about AIS
17 technicians' installations, how are they dealt with?

18 A. Traditionally the customer will call the
19 organization and create a complaint. The complaint is
20 then forwarded to a member of my internal team. They
21 would read the complaint, note that it came from a
22 customer served by AIS. That individual would send
23 that to the principals of AIS, and from there I have
24 no idea how it's handled.

25 Q. How many people are on your internal team?

1 A. In the entire group?

2 Q. You mentioned your internal team.

3 A. Someone in the respective office -- so if
4 it's a Lynnwood customer, a customer serviced by a
5 Lynnwood AIS technician, right, there's a complaint,
6 that comes back down to the Lynnwood leadership of
7 that group, they forward that to Ray, and Ray would
8 deal with it in any way he saw fit.

9 Q. And was that typically a one-page document?

10 A. Traditionally.

11 Q. And does DirecTV maintain copies of these
12 complaints?

13 A. I imagine. I don't know where they're held
14 or who holds them.

15 Q. Have you ever seen a copy of a customer
16 complaint related to an AIS technician?

17 A. I don't recall ever seeing one personally.

18 Q. So once the complaint was sent to the AIS
19 principal, was there any follow-up done by DirecTV?

20 A. It would be the job of the principal to
21 inform us of the actions with the customer.

22 Q. Can you recall any instance where AIS
23 principals took action with an installer related to a
24 customer complaint?

25 A. No.

1 Q. Does DirecTV have the power to fire AIS
2 contractors?

3 A. No.

4 Q. Did DirecTV ever have that power?

5 A. No.

6 Q. So when we talked about the ride alongs,
7 you rode along with DTV in-house installers. Why
8 didn't you ride along with any AIS installers?

9 A. Because they were not employees.

10 Q. Were you at all concerned about the quality
11 of work that they were doing?

12 A. They have signed a contract with DirecTV
13 for a very specific purpose. That purpose is to
14 install our proprietary systems and to satisfy the
15 needs of those customers, and their leadership that
16 signs that contract is responsible for upholding those
17 standards noted within the contract.

18 Q. Were you ever interested in riding along
19 with an AIS installer?

20 A. No.

21 Q. Let's turn to page 25. So, we have one
22 very long paragraph here, paragraph A. And let's see.
23 In the seventh line down, there's a reference to "SBCA
24 certified installer training."

25 A. Uh-huh.

1 Q. "Or other DirecTV-approved training
2 program." Can you tell me more about this SBCA
3 certified installer training?

4 A. The SBCA training, or certification I would
5 say, rather, is a certification that educates an
6 individual on generalized knowledge about satellite
7 technology in general, nonspecific to DirecTV. You're
8 talking about industry-wide standards. So very basic.
9 A very basic understanding.

10 Q. And did DirecTV require AIS installers to
11 undergo that training?

12 A. According to the contract the SBCA
13 certification is required.

14 Q. Have you taken this training?

15 A. No.

16 Q. Are you familiar with it?

17 A. On a personal level, no.

18 Q. Are you familiar with it on a general
19 level?

20 A. I would have to say no.

21 Q. Further down in that paragraph on the 10th
22 line from the bottom, sentence begins, "Contractor
23 shall, throughout the term of the agreement, maintain
24 a minimum one to 20 supervisor-to-technician ratio,
25 including subcontractors."

1 Can you tell me more about this ratio?

2 A. It's a ratio that would be assigned in the
3 hopes that they would have the right amount of support
4 for the people that are actually doing the work.

5 Q. At any time to your knowledge, did AIS fall
6 out of compliance with this ratio?

7 A. I do not know.

8 Q. Why is this ratio important?

9 A. You'd have to ask the person -- or the
10 contract. But...

11 Q. Let's look at page 29, please, Exhibit 3,
12 "Contractor installation and Service
13 Responsibilities." The first paragraph here
14 references materials, labor and tools and equipment
15 required. "The contractor shall furnish all necessary
16 materials, labor, tools and equipment."

17 Did DirecTV, at any time, furnish materials
18 or equipment to AIS installers?

19 A. Tools and equipment, no.

20 Q. Did DirecTV furnish other goods to AIS
21 installers?

22 A. DirecTV provides the materials necessary to
23 install the systems in the homes of our customers.

24 Q. And how does DirecTV provide those?

25 A. They are ordered through a local warehouse

1 and orders are made by AIS. They retrieve that, take
2 that to their offices and distribute.

3 Q. So AIS retrieves materials from DirecTV
4 warehouses?

5 A. Correct.

6 Q. Does DirecTV ever deliver materials to AIS?

7 A. That is -- I don't know in this specific
8 case with AIS. I don't know about AIS. I don't know
9 if we ever delivered materials to them, but it's
10 possible.

11 Q. Let's say, for example, an installer is out
12 in the field installing equipment at someone's home,
13 at a DirecTV customer's home. What if they run out of
14 something that they need? What happens then?

15 A. You're saying if an AIS installer?

16 Q. Right.

17 A. First of all, I don't know how they handle
18 it. If you were asking me how my W-2's would handle
19 it, they would contact another technician or
20 supervisor who would deliver it to them.

21 Q. So is it your understanding that the AIS
22 technician would contact one of their AIS field
23 supervisors if they had a problem?

24 A. Yes. Or the principal, yes.

25 Q. Ray Martinez?

1 A. Correct.
2 Q. Are AIS installers ever provided with
3 contact information for DTV supervisors?

4 A. I'm sorry. Could you repeat that?

5 Q. Are AIS installers ever provided with
6 information from DTV?

7 A. No.

8 Q. For DTV supervisors?

9 A. No.

10 Q. So, as far as you know, there's no
11 interaction between DirecTV supervisors and AIS
12 installers?

13 A. Correct.

14 Q. So, field supervisors, such as Joshua or
15 Bronson or Spencer, what kind of interaction did they
16 have with AIS principals such as Ray Martinez?

17 A. Generalized. You know, usually the
18 communication would be between site manager and
19 principal, but there could be some interaction. I'd
20 say it's mostly limited.

21 Q. And what interaction did those DirecTV
22 field supervisors I mentioned have with AIS
23 installers?

24 A. To my knowledge, none.

25 Q. So the AIS installers, when they were in

1 the field, were they required to wear uniforms?

2 A. The contract that AIS agreed to and signed
3 does stipulate that contractors will have
4 identification in a couple of forums, one of which is
5 a DirecTV shirt, that their vehicles be marked as an
6 authorized service provider for DirecTV, and
7 identification on their person to identify them as an
8 authorized provider of DirecTV. This is done for,
9 first and foremost, customer comfort and safety as
10 well as brand recognition.

11 Q. Were there requirements in terms of what
12 the AIS installers had to drive? Vehicle
13 requirements?

14 A. The type of vehicle?

15 Q. Type of vehicle or quality of vehicle.

16 A. I'm unaware of anything specific other than
17 it needs to be a vehicle that is clean, a vehicle that
18 is reasonable in appearance, but it will be -- it
19 would be noted in the contract.

20 Q. And I think you mentioned they had to --
21 the AIS installers used some kind of DirecTV logo for
22 their vehicles?

23 A. They would use a -- it's usually a magnet
24 that's -- but it also would have the DirecTV logo on
25 it, yes.

1 Q. Did DirecTV require AIS installers to have
2 certain skills?

3 A. Certain, I'm sorry, skills?

4 Q. Skills.

5 A. The contract in which AIS agreed to and
6 signed requires them to have certifications to perform
7 the installations we've discussed.

8 Q. Did DirecTV require the AIS installers to
9 have certain education or work experience?

10 A. Education in terms of -- can you define
11 education, please.

12 Q. Well, you know, learning, schooling.

13 Certain certification. Courses taken.

14 A. Okay. So if you were talking formal
15 education, no, but if you're talking certifications to
16 perform the services of our proprietary systems, yes.

17 Q. Okay. And we discussed one certification
18 previously.

19 A. Correct.

20 Q. Aside from that certification, were there
21 other requirements?

22 A. Yes.

23 Q. Okay.

24 A. There is two certifications that -- the
25 SBCA is one of them. The other one is proctored by a

1 company called Jones University, and that is a
2 tutorial of more of our proprietary installation
3 technology. So the skills they'll need to complete
4 the work orders once assigned.

5 Q. And did DirecTV maintain information on the
6 AIS installers about whether or not they had completed
7 the Jones University training?

8 A. Yes.

9 Q. And where was that information maintained?

10 A. I don't know where it's maintained.

11 Q. Is it separate from that database we talked
12 about previously?

13 A. I don't know.

14 Q. Why does DirecTV maintain that information?

15 A. Because under the contract they're
16 obligated to ensure that our quality standards and
17 customer satisfaction is representative of our brand.
18 And our products are highly technical, highly
19 sophisticated. They change on a very regular basis.
20 And it's simply -- it's extremely -- it's not possible
21 for you to deliver the type of experience we would
22 expect without the proper certifications.

23 Q. You mentioned two types of certifications.
24 Were there others? Are there others required of AIS
25 installers?

1 A. In the contract, no.

2 Q. Outside of the contract are there other
3 requirements?

4 A. At present, no.

5 Q. In the past were there?

6 A. No.

7 Q. So you mentioned this technology is very
8 sophisticated and constantly changing. What does
9 DirecTV do to teach or certify AIS installers on the
10 new changes in technology?

11 A. We don't teach AIS installers. AIS trains
12 their installers.

13 Q. What do you do, if anything?

14 A. We provide materials that they have access
15 to, that they can take and then take to their
16 installers and train them.

17 Q. "They," AIS?

18 A. "They," AIS, yes.

19 Q. And how does DirecTV offer or deliver these
20 materials to AIS?

21 A. There's a website called Sat Install TV
22 dot com that they have access to, that they can pull
23 those materials from. Or when they go through the
24 Jones certification, they have the option to buy a
25 certification course or the materials themselves. So

1 those two sources.

2 Q. So does DirecTV communicate with some
3 frequency to AIS about, you know, there's new
4 information on the website available? Anything like
5 that?

6 A. No.

7 Q. So how does AIS know if there is new
8 information available?

9 A. It's their responsibility to maintain their
10 training. So typically they'll have someone that
11 looks on there. And we also -- they know when we have
12 new products coming. So it's up to them to train
13 their employees.

14 Q. Does DirecTV do any auditing of AIS
15 installers' knowledge of the latest technologies?

16 A. The installers themselves?

17 Q. Yes.

18 THE WITNESS: I'm sorry. Could you just
19 read that back to me.

20 (Record read as requested.)

21 A. No.

22 Q. Does DirecTV do any auditing of AIS
23 principals or leadership's awareness of the latest
24 technologies?

25 A. No. So as long as they are certified there

1 is no auditing beyond that.

2 Q. You say "certified." What do you mean by
3 that?

4 A. By having passed the Jones certification.

5 Q. Is the Jones certification a one-time
6 certification or is it an ongoing process?

7 A. It is a one-time certification, to my
8 knowledge.

9 Q. Are AIS installers provided any laptops by
10 DirecTV?

11 A. No.

12 Q. Are they provided with hand-held devices by
13 DirecTV?

14 A. No.

15 Q. Have they ever been provided with hand-held
16 devices?

17 MR. KELLY: By DirecTV?

18 Q. By DirecTV.

19 A. No.

20 Q. Have AIS installers ever been provided with
21 laptops by DirecTV?

22 A. Not to my knowledge.

23 Q. Does DirecTV provide hand-held devices or
24 laptops to AIS if not directly to the installers to
25 the principals at AIS?

1 A. No.

2 Q. When AIS installers call in to DirecTV upon

3 arrival on site to install equipment, what number or

4 group do they contact?

5 A. I'm not sure of the number.

6 Q. Is there one phone number they all use?

7 A. I would guess so, but I don't know for

8 sure.

9 Q. Let's talk a little bit about record

10 keeping. Does DirecTV require AIS to keep any sort of

11 records related to its installers?

12 A. I'm not aware of the records they're

13 required to keep, if any. But if the records -- it's

14 inside the contract, but I'm unaware specifically of

15 what they are.

16 Q. And does DirecTV keep records of the

17 customer surveys we talked about previously?

18 A. Yes.

19 Q. And do you know how long DirecTV keeps

20 records of those?

21 A. I don't.

22 Q. Do you have any idea how often customer

23 surveys are sent out or done?

24 A. How often they're completed?

25 Q. As related to, yeah, AIS installers. Like

1 -- well, let me rephrase that. That's confusing.
2 Every time an AIS installer goes to do a job at a
3 customer's house, is a survey conducted?
4 A. A survey attempt is conducted, yes.
5 Q. Do you know how often customers respond to
6 those surveys, generally?
7 A. For AIS?
8 Q. Right.
9 A. No.
10 Q. Do you know for DirecTV in-house
11 installers?
12 A. On the whole it's roughly 40 percent.
13 Q. As far as you know, does -- do the AIS
14 numbers differ substantially from that?
15 A. I don't know. I don't have any idea.
16 Q. Does DirecTV require the same certification
17 of its in-house installers as it requires of the AIS
18 installers?
19 A. Yes.
20 Q. Are there any differences in the training
21 between -- the training or certification requirements
22 between DirecTV installers and AIS installers?
23 A. To become a basic installer, no, but there
24 are some more advanced service trainings that our
25 technicians would take that theirs would not because

1 they do not perform service.

2 Q. So there are some services in-house
3 installers do that AIS installers do not do?

4 A. That is correct.

5 Q. Where do those in-house installers receive
6 that more advanced training?

7 A. At their facility, whichever facility the
8 technician would report to.

9 Q. So it's DirecTV in-house training?

10 A. Yes.

11 Q. Have you ever attended one of those
12 trainings?

13 A. Yes.

14 Q. Have you participated in the training?

15 A. Observed not as a student but as an
16 observer, yes.

17 Q. Why has DirecTV not made that training
18 available to AIS installers?

19 A. Because at present they are not performing
20 service calls. So there's no need for them to have
21 the service training.

22 Q. And is this all customer service you're
23 talking about or what do you mean by "service calls"?

24 A. A customer having a problem. So, existing
25 customer with a problem that we have to go back and

1 fix.

2 Q. So the only differences in training between
3 the DirecTV installers and the AIS installers is
4 customer service-related training?

5 MR. KELLY: Mischaracterizes the testimony.
6 You can answer.

7 A. Yes.

8 Q. The uniforms that are required of the
9 DirecTV -- sorry -- of the AIS installers, can you --
10 what was it, a shirt did you say?

11 A. It's usually a DirecTV logo'd shirt or cap,
12 or both. But, obviously, as it states in the
13 contract, their vehicle needs to be marked with a
14 DirecTV logo, and also that says that they are an
15 authorized service provider for DirecTV, as well as
16 wear the identification badges that show who they are.
17 If we were to come to your house we would want you to
18 feel comfortable that a professional was entering your
19 home.

20 Q. Are those T-shirts and badges and car
21 decals and hats provided for free or are AIS
22 installers charged for them?

23 A. I have no idea.

24 Q. Are you aware of any report cards used for
25 auditing AIS installers?

1 A. No.

2 Q. Does DirecTV keep any sort of record of

3 performance of AIS installers?

4 A. Yes.

5 Q. And please describe those.

6 A. The performance, there's several different

7 reports that are sent regularly. They're available,

8 but I don't know how long they're archived. I don't

9 know where they're kept.

10 Q. So several different reports, and to whom?

11 A. The local offices have access to those

12 reports, and they will filter out all of the

13 information not associated with AIS and send AIS their

14 information for their purposes only.

15 Q. And the information that goes into those

16 reports, what kind of information is it?

17 A. Are you talking about a specific metric?

18 If there's any specific thing you'd like me to comment

19 on, I can.

20 Q. Yeah. General or specific metrics.

21 A. Service metrics. On-time guarantee

22 metrics. There are reports sent to them regarding

23 their inventory. Service rates.

24 Q. When you say "service rates" what do you

25 mean by that?

1 A. The amount of service calls they generate
2 from work that they complete.

3 Q. Are you talking about AIS installers?

4 A. Uh-huh.

5 Q. The on-time information, where is that
6 maintained or how is that maintained?

7 A. I'm not sure where it's maintained. It
8 would be maintained somewhere in our headquarters, but
9 I don't know where or with who.

10 Q. And how does DirecTV know whether AIS
11 installers are meeting on-time metrics or not?

12 A. Usually from direct inquiry from customer,
13 and the arrival time in which they arrived on the
14 site.

15 Q. And how often are these -- the different
16 reports sent to AIS?

17 A. I don't know.

18 Q. Do you have any idea?

19 A. No.

20 Q. The inventory information, do you have any
21 idea how often that is sent to AIS?

22 A. In the time period that I was in charge?

23 Q. (Nodding head.)

24 A. Likely monthly they would get the end
25 results of their -- what they would call shrink, the

1 amount of inventory that was unaccounted for at their
2 month-end inventory.

3 Q. And "unaccounted for," like, what do you
4 mean by that?

5 A. They say they have something and they don't
6 have it.

7 Q. "They," AIS?

8 A. Yes.

9 Q. And DirecTV determined whether or not they
10 had it how?

11 A. Field supervisors would visit their
12 facilities typically and work with the principals to
13 go through and verify that work orders were closed
14 with the correct inventory.

15 Q. And would the field supervisors check
16 inventory on individual installers' trucks, for
17 example, the AIS trucks?

18 A. I don't know that. I don't know how they
19 operate it. I don't know how they execute the
20 accounts.

21 MS. DOHERTY: I think I'd like to break
22 now. It's nearly 11:30. We'll go off the record.

23 (Lunch recess taken from 11:30 to 12:30
24 p.m.)

25 AFTERNOON SESSION

1
2 MS. DOHERTY: Back on the record. First of
3 all, during the break we received page 1 from DirectTV
4 counsel. So we'd like to add this to the exhibit.

5 MR. KELLY: We'll stipulate it's part of
6 Exhibit 2, page No. 1.

7 Q. (By Ms. Doherty) So I'd like to ask you
8 more about Jones University. Can you tell me more
9 about Jones University? I've never heard of it.

10 A. It is a proctoring service that we've
11 utilized to provide our contracting partners with
12 their certifications for our proprietary technology.

13 Q. Is there a physical location for the
14 university?

15 A. No.

16 Q. I'm not familiar with the term "proctoring"
17 service." Can you explain more?

18 A. They administer the exam. They don't do
19 any of the training. They're just the organization
20 that processes the results and proctors the exam.

21 Q. Is it a division of DirectTV?

22 A. No.

23 Q. It's a separate organization?

24 A. It is, yes, ma'am.

25 Q. Is it known by any other name other than

1 Jones University?

2 A. That's all what I've known it to be. If
3 there's another name I'm not aware of it.

4 Q. So, let's say I'm a DirecTV installer and I
5 need to take the Jones University training.

6 A. You wouldn't need to do that you were if a
7 DirecTV installer.

8 Q. I'm sorry. So who needs the Jones
9 University training?

10 A. Our subcontracting partners.

11 Q. So, for example, an AIS installer would do
12 it?

13 A. Yes.

14 Q. So how does an AIS installer obtain
15 information about doing the Jones University training?

16 A. Information about it would be provided from
17 DirecTV to the principal. The principal would then
18 give that to the installer, and the installer would go
19 and get the certification from there.

20 Q. Are laptop computers made available by
21 DirecTV for installers to do this training?

22 A. AIS installers?

23 Q. Right. For AIS installer to do it.

24 A. No.

25 Q. It's only the subcontracting installers who

1 do this training; right?

2 A. The information in this training is also
3 the same training that we would use for our new-hire
4 training for our W-2 employees. So this is just the
5 mechanism by which they obtain that specific class.

6 Q. But the DirecTV new-hire employees don't
7 utilize the Jones University?

8 A. Jones, that's correct.

9 Q. So this contract with AIS we've looked at
10 before, Exhibit 2, and now with the first page added
11 to it, is this the same contract that DirecTV
12 maintains with other subcontractors around the
13 country?

14 MR. KELLY: Objection. Beyond the scope.
15 Instruct the witness not to answer for reasons I've
16 discussed with counsel.

17 Q. Are you taking your attorney's advice not
18 to answer?

19 A. Yes.

20 Q. Have you seen other DirecTV contracts with
21 other subcontractors around the country?

22 MR. KELLY: You can answer yes or no.

23 A. I don't recall ever seeing a separate
24 contract.

25 Q. I'm going to ask the question again because

1 the objection is unfounded. Are you aware of other
2 contracts that DirecTV has with contractors around the
3 country?

4 MR. KELLY: Same objection. Same
5 instruction.

6 MS. DOHERTY: We're going to go off the
7 record a moment.

8 (Discussion off the record.)

9 MR. KELLY: Stipulate that we're back on
10 record. Can you read the question back, please.

11 (Record read as requested.)

12 MR. KELLY: You can answer yes or no.

13 A. "Of other contracts." So can you clarify
14 the question for me, please.

15 Q. Does DirecTV have other contracts with
16 subcontractors, such as AIS but other subcontractors,
17 around the country?

18 A. Yes.

19 Q. Have you seen any of these contracts?

20 A. No.

21 Q. Do you know if these contracts are the same
22 as the contract that DirecTV has with AIS?

23 MR. KELLY: No foundation. Calls for
24 speculation. You can answer.

25 A. Can you repeat the question, please.

1 MS. DOHERTY: Can you read it back.

2 (Record read as requested.)

3 MR. KELLY: No foundation. Calls for
4 speculation. You can answer if you know.

5 MS. DOHERTY: That's coaching the witness,
6 counsel.

7 MR. KELLY: Ma'am, stating an objection is
8 not coaching the witness. Telling the witness that he
9 can answer if he knows is not coaching the witness.

10 MS. DOHERTY: He asked for repetition of
11 the question. He didn't ask for a repetition of your
12 objection.

13 MR. KELLY: We're making a record here. I
14 think everybody knows what's being done here.

15 A. My understanding is that they are the same
16 contract.

17 Q. Is there a person who would better be able
18 to answer that question at DirecTV?

19 A. I'm sure there is.

20 Q. Who is that person, do you know?

21 A. I don't know who the best person to answer
22 that question would be, but it would be someone in our
23 legal department.

24 Q. Where is the legal department?

25 A. There's a legal department in Denver,

1 Colorado.

2 Q. Is there another legal department?

3 A. I believe there is some in California, but
4 I think operations legal would be in Denver.

5 Q. On page 42 of the contract there's a
6 signature of David Baker, senior vice-president. Do
7 you know David Baker?

8 A. I do.

9 Q. Do you know if he was involved in
10 negotiating this contract?

11 A. I'm sorry. What page did you say that was?

12 MR. KELLY: 42.

13 A. So the question was regarding Mr. Baker?

14 MR. KELLY: Do you know if he negotiated
15 the contract with AIS.

16 A. With AIS, no.

17 Q. Does David Baker negotiate some contracts?

18 A. I don't know.

19 Q. Let's look at page 26 of the contract,
20 paragraph B, subcontractors.

21 MR. KELLY: We're on the page right now.

22 Q. About nine or 10 lines up from the bottom
23 of paragraph B. And I'll read from the contract. It
24 states, "DirecTV, in its sole discretion and upon
25 notice to contractor, may terminate the subcontractor

1 status of any such third party or subcontractor and
2 contractor may not engage or otherwise utilize such
3 third party or subcontractor in the performance of
4 services as set forth herein..." And it goes on.

5 MR. KELLY: We're just reading the verbiage
6 in the agreement.

7 Q. Do you see where I'm reading?

8 A. I do. I'm just reading it. Okay.

9 Q. What's your understanding of that?

10 A. I'm sorry.

11 Q. Take your time.

12 A. To me this section seems to say that
13 DirecTV has the sole discretion upon notice to
14 terminate the subcontractor status of a third party.
15 "Or subcontractor," and the contractor may not engage
16 with that third party again until they are reinstated
17 by DirecTV in writing.

18 Q. In other words, DirecTV could fire a
19 subcontractor?

20 A. Yes.

21 Q. Are you aware of any limitations on
22 DirecTV's ability to fire a subcontractor?

23 A. No.

24 Q. You testified earlier that it's cheaper to
25 use contractors than to use in-house technicians. Why

1 is that?

2 A. Several reasons. Contractors are -- a
3 contractor will pay for their own supplies. They will
4 pay for their own fleet. They will pay for their own
5 fuel. They will pay for their own tools. They will
6 pay for their own benefits, if they provide any,
7 because their employees are not eligible for benefits
8 with DirecTV because they're not employees. So it is
9 cheaper to use contractors than in-house technicians.

10 Q. What kind of benefits does DirecTV provide
11 to its in-house technicians?

12 A. Medical, dental, vision, 401(k), pension,
13 complimentary DirecTV programming. Let's see.
14 Employee assistance programs. I'm sure I'm forgetting
15 something. It's a fair assessment, I guess.

16 Q. You testified earlier that using in-house
17 installers for all installation was an expensive
18 proposition. Why?

19 A. A more expensive proposition, yes.

20 Q. More expensive than using?

21 A. Subcontractors.

22 Q. Why?

23 A. Because we are therefore paying for those
24 things I mentioned previously. You're paying for the
25 employee's benefits. You're paying for the employee's

1 vehicle. You're paying for the employee's fuel.
2 You're paying for the employee's tools. All of the
3 materials that they need to -- like consumable
4 inventory. Things that you have to provide for them
5 to be able to complete the work. Facilities. So rent
6 and common area maintenance and all the things
7 associated with having a physical facility.
8 Employees' support.

9 Q. And you testified that AIS only performs
10 7 to 9 percent of DirecTV installation work during
11 slow periods, 8 to 10 percent during high periods.
12 Why does DirecTV not hire, you know, more employees,
13 part-time workers or temp workers, during the busier
14 periods?

15 A. Now, I would say that with a range because
16 those numbers are not exact. So estimated under --
17 that being an estimation. Why wouldn't we hire
18 part-time employees? In the field it's very difficult
19 to keep a part-time employee, first of all, trained
20 and up to speed. The work is -- your skill and your
21 craft is honed with experience and repetitive action.
22 So, someone that comes in and works for three months,
23 gets trained, works for three months and goes away,
24 that's very difficult for us to even get a person
25 ready for them to perform well. So, the part-time

1 model just doesn't work for us and we choose not to
2 use it.

3 Q. And so is it fair to say that hiring
4 part-time workers would change the bottom line?

5 MR. KELLY: Vague and ambiguous as to "the
6 bottom line."

7 Q. So if you understand the question you can
8 answer it.

9 MR. KELLY: It's colloquial, counsel. I
10 think we know that.

11 THE WITNESS: Do I answer?

12 Q. Please. You may answer the question.

13 THE WITNESS: Can you restate.

14 (Record read as requested.)

15 A. Yes.

16 Q. How so?

17 A. You would have to invest in their training.
18 You would have to invest in their -- everything that
19 you would have to invest in a full-time worker.
20 Perhaps, depending on their hours worked, less
21 benefits, but still would remain an in-house expense.
22 And, more importantly, over time you wouldn't be able
23 to sustain their skills and grow their skills being a
24 part-time worker. This is a job that you get better
25 at over time. So, the limited amount of time they're

1 there isn't good for the development and being able to
2 sustain them as employees.

3 Q. If it's cheaper to hire subcontracting
4 installers, why not only use subcontractors?

5 MR. KELLY: Why what?

6 Q. Why not only use subcontractors?

7 A. My job is to ensure that the quality
8 standards and the customers' expectations are met and
9 exceeded. We believe that we have become as
10 proficient as we have been because we've had an
11 ownership interest in our field operation. And while
12 we still see value in contractors, we prefer to have a
13 higher percentage of work done by in-house employees.

14 Q. Has DirecTV ever hired AIS installers as
15 in-house technicians?

16 A. I don't know the answer to that.

17 Q. Has DirecTV hired other subcontracting
18 installers as in-house technicians?

19 A. I don't know the answer to that.

20 Q. If DirecTV were to hire a subcontracting
21 installer as an in-house technician, would their
22 duties change at all?

23 A. It's hard for me to answer because I don't
24 know what their duties are outside the scope of the
25 installation. So, I don't know what their

1 administrative responsibilities are to their local
2 office. I don't know what their meeting schedules
3 are. I don't know what interaction they have with
4 their local supervisors. So, can you give me a little
5 bit more of a clear definition of what they would be
6 doing?

7 Q. With respect to their installation duties
8 would there be any change?

9 A. It would be very similar. They would
10 likely be doing service calls, in addition to their
11 existing work today, but the work in general is very
12 similar.

13 Q. Are all DirecTV in-house installers trained
14 in doing service calls?

15 A. All in-house employees or technicians are
16 trained, but not all of them have service in their
17 skill set.

18 Q. And what determines whether service is in
19 their skill set?

20 A. Quality standard of work on other work
21 order types. Experience, time and position.

22 Q. And can you tell me about how DirecTV
23 maintains information as to all of those things you
24 just mentioned?

25 MR. KELLY: For W-2's.

1 Q. For its own in-house installers.

2 THE WITNESS: Can you read it back.

3 (Record read as requested.)

4 A. And by "information" are you talking about
5 data?

6 Q. Yeah. Data and performance standards.

7 A. Performance is monitored in a number of
8 ways. Usually through data reporting. That reporting
9 is available to local leadership, and performance is
10 managed by the site manager and the local supervisors
11 that manage those particular technicians.

12 Q. So we talked earlier about the data that
13 DirecTV maintains on AIS installers. How does that
14 differ from the data DirecTV maintains on in-house
15 installers?

16 A. From a metric perspective many of them are
17 the same. The performance metrics that we look at for
18 customer satisfaction, that we look at for field
19 compliance, are the same, but we have more reporting
20 that we would do for in-house employees than we would
21 do for, you know, an external company. And the list
22 is long and vast.

23 Q. Is there a name for the database where you
24 maintain this information?

25 A. I don't know it. I don't know if it's

1 called "Database." I don't know how it's archived. I
2 don't know the answer to the question. I'm sorry.

3 Q. Do you know if the information or database
4 for the AIS installers is separate from the DirecTV
5 installers database?

6 A. Are you talking about compliance data or
7 are you talking about information that's in the work
8 force management system?

9 Q. How about information in the work force
10 management system?

11 A. Information in the work force management
12 system is in the same place because you're going
13 through the same pool of -- you have to have a host, a
14 person in the work force management system, to be able
15 to be routed a work order, right. So that's one of
16 the prerequisites, but the performance data is
17 completely separate. Now, some of that comes from
18 that same system but not all. So, a lot of it is --
19 some of the source data for the reports comes from
20 that same system, if that makes sense.

21 Q. So the work force management system is a
22 database where information is maintained for both
23 in-house installers and subcontractor -- or AIS
24 installers?

25 A. Yes.

1 Q. Is that easy to separate out?

2 A. Uh-huh.

3 Q. And the performance standards system, how
4 are those different? Can you describe for AIS and for
5 in-house?

6 A. Performance metrics are virtually -- for
7 example, you've seen some of their data in the
8 contract, right. Some of them say send seven, for
9 example. That's something that they will send to them
10 on a regular basis for them to manage to. That's the
11 exact same metric that we would use for our internal
12 guys.

13 But there are some metrics that would be
14 measured more on an internal basis, and they're
15 usually subcuts of other pieces of data that we've had
16 in -- what's the best way to put it? We extrapolate
17 data that comes out of the system for virtually every
18 performance metric, but we don't share every one of
19 those metrics with the contractors. So we share
20 information that's pertinent to the contractors only.
21 And they deal with the data from their end.

22 Q. And how do you share that information?

23 A. Usually push to them via e-mail.

24 Q. E-mail?

25 A. Yes.

1 Q. Have you e-mailed AIS management with data?

2 A. I don't recall ever having done that.

3 That's usually done by the site manager or supervisor,
4 W-2 supervisor.

5 Q. And who is that with respect to AIS or who
6 would that be?

7 A. That would be Ray. Sent to Ray.

8 Q. Who at DirecTV would send it to Ray?

9 A. Oh, I see. In that given time period?
10 Which time period are we talking about?

11 Q. The whole time that you supervised in
12 Washington.

13 A. It would be one of a few people. Marsha
14 Stephens. Mark Mastin is another.

15 Q. Do these people have job titles?

16 A. Marsha Stephens is no longer with the
17 company. Mark Mastin is now director of operations in
18 the state of Washington.

19 Q. And what was Marsha Stephens' title?

20 A. Site manager.

21 Q. Can you think of anyone else besides those
22 two people who would be e-mailing performance standard
23 information to Ray?

24 A. I really wouldn't know who was responsible
25 for sending that. So those are the only two names I

1 would feel comfortable giving because I don't know who
2 whose responsibility that was.

3 Q. You testified earlier that field
4 supervisors will do ride-alongs with in-house DirecTV
5 installers?

6 A. That's correct.

7 Q. To see how they're doing and compliment
8 them and review their work. Why don't these
9 supervisors do ride-alongs with AIS installers?

10 MR. KELLY: Objection. Asked and answered.
11 You can answer.

12 A. Because they're not employees.

13 Q. Isn't DirecTV concerned about the quality
14 of work being done by the AIS installers?

15 MR. KELLY: Objection. Asked and answered.
16 You can answer.

17 A. We're always concerned about the quality
18 that they produce, but that's Ray's job. It's Ray's
19 team's job. It's not our guy's job.

20 Q. The surveys that are done by DirecTV, are
21 those associated with specific installers?

22 A. Yes.

23 Q. Does DirecTV keep track of how particular
24 installers are doing?

25 A. They do.

1 Q. Including AIS installers?

2 A. That's my understanding, yes.

3 Q. Does DirecTV take any action if an AIS
4 installer regularly receives negative feedback?

5 A. No.

6 Q. Why not?

7 A. Because they're not employees.

8 Q. Does DirecTV contact Ray or the principal
9 of the subcontracting agency with respect to negative
10 survey results?

11 A. They would speak to Ray -- sorry. They
12 would speak to Ray at that level. They would speak to
13 him personally about the team's performance. And it's
14 at my direction it's their understanding that it is
15 Ray's job to take any further discussion from that
16 point forward.

17 Q. When you say "they" who are you referring
18 to?

19 A. My -- whether it be my site manager,
20 whether that be a tech supervisor on a W-2 side, if we
21 were to send data points to Ray and say that there's a
22 substandard performance he would let him know that.
23 It's up to Ray, from that point forward, to do
24 whatever it is that he does to drive his team's
25 performance. So we would have no knowledge or input

1 whatsoever.

2 Q. Does DirecTV have the power to tell AIS
3 that DirecTV does not want a specific installer
4 working for AIS any more?

5 A. Not from my view, no.

6 Q. Is this consistent with what we looked at
7 in the contract on page 26?

8 MR. KELLY: Calls for a legal conclusion.
9 Vague and ambiguous. You can answer.

10 A. From my view I would say no.

11 Q. The quality control techs that you
12 mentioned earlier who accompany -- they accompany
13 contractor installers, AIS installers?

14 A. They do not accompany them.

15 Q. They follow them?

16 A. An AIS technician would complete a work
17 order, go to the next one. Day or so later, two days
18 later, a week later, that quality control technician
19 would go out on a myriad of work orders to inspect
20 quality standards. So there's no interaction between
21 the two, I just want you to understand.

22 Q. And are the AIS installers aware of those
23 quality control people?

24 A. I don't know.

25 Q. How often do they go out after AIS

1 installations have occurred?

2 MR. KELLY: He just told you, a day or week
3 later.

4 Q. You can answer the question.

5 MR. KELLY: Do you want to have your last
6 answer read back? Counsel, he just told you literally
7 15 seconds ago.

8 MR. LAKE: I think that counsel was asking
9 about the frequency not.

10 MR. KELLY: Can you read the question back
11 because I think she said how long do they go out after
12 the work. Read the question back, please, madam court
13 reporter.

14 (Record read as requested.)

15 MR. KELLY: That's what I thought the
16 question was. Do you want that question answered or
17 the one that counsel asked?

18 MS. DOHERTY: My question was how often.

19 Correct? Did you just read back my question?

20 (Record read as requested.)

21 MR. KELLY: You can answer.

22 A. So, the quality technicians would work
23 every day that they were scheduled to work, and every
24 day that they are scheduled to work they would go and
25 do that. So they're doing them daily. How

1 frequently, to your point, would they be with an AIS
2 technician versus an in-house technician's work, I
3 don't know the answer to that.

4 Q. Were there targeted quality control checks,
5 or it was just random checks?

6 MR. KELLY: With respect -- can you tell me
7 what you mean by "targeted"?

8 Q. Do you understand the question?

9 MR. KELLY: I don't understand the
10 question.

11 MS. DOHERTY: I'm not talking to you.

12 MR. KELLY: Counsel, if I don't understand
13 the question, my apologies. I'm not trying to argue
14 with you.

15 MS. DOHERTY: You clearly are trying to
16 argue with me.

17 A. I would like clarification, if it would be
18 okay.

19 Q. Were the checks by the quality control
20 people random?

21 A. Random in such that we would pull a sample
22 of work orders from a pool. Would we make sure that
23 some of the work orders that we were going to go
24 verify were from work orders completed by AIS, yes, to
25 make sure that their quality standards were met and

1 exceeded customers' expectations. But was there a
2 targeted percentage, I wouldn't know what that
3 percentage was or speak to it.

4 Q. Were there particular AIS installers whom
5 you would notify the quality control people to check
6 up on more frequently?

7 A. They would have no idea who the person was
8 that was there prior. All they know is they're going
9 to a customer's home, and they would fill out
10 paperwork, bring it back, and that's it. So they
11 would have no visibility to whether it was an AIS tech
12 or whether it was our technician.

13 Q. The quality control people would have no
14 visibility but someone at DirecTV would know?

15 A. Upon seeing results, yes.

16 Q. And would someone at DirecTV, upon seeing
17 results, focus on particular AIS installers with
18 respect to sending out the quality control people?

19 A. I don't know how to answer that. I
20 wouldn't know unless you were giving me a specific
21 circumstance to comment on.

22 Q. What happens with the feedback from the
23 quality control checks?

24 A. It's shared with the principal or, in this
25 case, Ray, and he would take that, study it, and do

1 whatever he sees fit.

2 Q. How does DirecTV determine assignments,
3 whether they go to in-house installers or AIS
4 installers?

5 A. So are you talking about quality control or
6 are you talking about regular work?

7 Q. Now I'm talking about regular work
8 installation.

9 A. Okay. Thank you for clarifying. So, the
10 question is -- say it again, please.

11 MS. DOHERTY: Could you read it back.

12 (Record read as requested.)

13 A. So first criteria has got to be the number
14 of techs working on that particular day. And so, in
15 that vein, the system is set up with -- the work force
16 management system is set up with the individuals that
17 will be working that day. And then once the routes
18 fill systematically, the volume routes that AIS is to do
19 that day is pushed to AIS for them to complete and to
20 meet the customer standards. That's their sole
21 responsibility, and we have zero input on who gets
22 what work.

23 So the work orders are systematically
24 generated based on the number of profiles or tech
25 profiles in the system. It pushes out work for that

1 day. A percentage of that work is going to go to the
2 contractor. That work is systemically pushed to them.
3 From then it belongs to them. It's scrambled eggs.

4 Q. So looking at the different services on the
5 rate sheet that we looked at previously, for example,
6 I understand install is one service, upgrade is
7 another service?

8 A. Uh-huh.

9 Q. Does DirecTV make assignment determinations
10 with respect to specific services when deciding
11 whether to push out work to a contractor or send it to
12 its own in-house installers?

13 A. So, the thing that will determine what type
14 of work orders you'll get is a skill set, skill
15 package that is included in the systemic setup. And
16 so if you're a technician with an install, upgrade and
17 service skill set, you're eligible to receive those
18 work orders. If you install and upgrade in your skill
19 set you will not receive service work orders.

20 Q. Is it fair to say that DirecTV in-house
21 installers have a broader skill set than AIS
22 installers?

23 A. From a systemic perspective?

24 Q. Yeah, sure.

25 A. Well --

1 Q. As opposed to what perspective?

2 MR. KELLY: She's not trying to argue with
3 you. She's trying to agree with you.

4 THE WITNESS: Okay.

5 A. In this case, yes. Contractors typically
6 do not do service calls. They do typically installs,
7 upgrades, and what we call former installs or when a
8 person moves from one home to another. So they would
9 not have service in their skill set, so they would not
10 receive the full complement of work.

11 Q. Now, this is the rate sheet that DirecTV
12 provided to AIS, and so if AIS installers are not
13 doing service work why is service listed on this rate
14 sheet?

15 A. If and when, at a time to be determined by
16 DirecTV, they decided to open service to that
17 contractor they know what the payout is.

18 Q. Have rate schedules changed during the
19 period that you oversaw Washington?

20 A. I'm not aware of the specific changes. I
21 believe there have been some changes, but I'm not
22 aware of the specific changes.

23 Q. From 2008 forward, has DirecTV increased
24 its revenues?

25 A. Have we increased revenues in that period

1 of time?

2 Q. Yes.

3 A. I would say we have.

4 Q. Is DirecTV growing as a company in terms of
5 how many people it's employing?

6 A. I wouldn't have a direct metric in front of
7 me to be able to authorize that for sure. Anything I
8 would be saying would be speculative on my part.

9 Q. So could you speculate as to whether or not
10 DirecTV has grown in the past six years?

11 A. I believe we have.

12 Q. Has DirecTV started using more contractors
13 in the past six years?

14 A. I'd say the percentage has been relatively
15 constant.

16 Q. So David Baker, who signed this contract,
17 what looks like he was a senior vice-president, is he
18 still with the company?

19 A. He is.

20 Q. And what are his duties?

21 A. He's the senior vice-president of all
22 DirecTV home service operations and field service
23 operations.

24 Q. What does that involve?

25 A. So, everything associated with the

1 installation and service of our customer base would
2 fall under Dave's flag.

3 Q. Is he the only person responsible for that,
4 or are there other senior vice-presidents?

5 A. He is the only senior vice-president over
6 the field services operation. His title is senior
7 vice-president of field services, I believe.

8 Q. And where is he based?

9 A. Denver.

10 Q. Does he come out -- or when you were
11 working overseeing the Washington area, did he come
12 out here often?

13 A. No.

14 Q. Did he come out at all?

15 A. I don't recall having Dave -- David visit
16 us. I think David visited the Lynnwood site one time
17 with me.

18 Q. And do you remember what he did during that
19 visit?

20 A. Sure. He spoke to the technicians and
21 thanked them for their performance. Answered
22 questions from the group about the company, about
23 business.

24 MS. DOHERTY: We'll take a short break. I
25 think we're almost done. So we'll take five or 10

1 minutes and then be back.

2 (Off the record from 1:27 to 1:36 p.m.)

3 Q. Does DirecTV have the power to tell AIS if
4 they don't want a specific AIS installer working on
5 DirecTV projects?

6 THE WITNESS: Can you repeat the question?

7 (Record read as requested.)

8 A. My understanding is that DirecTV could
9 inform the principal that, based on frequency of
10 noncompliance of a specific individual, that they may
11 not work -- want that individual working on
12 proprietary -- our proprietary systems, but would have
13 no influence on that person's employment with said
14 contractor. That is my understanding.

15 Q. Do you remember when you first learned
16 about the Department of Labor investigation of AIS?

17 A. No, honestly.

18 Q. About what time, roughly?

19 MR. KELLY: Can you -- I don't want to
20 interrupt you. You mentioned something at the very
21 beginning. Can you help me with the date? If you
22 know the date of that meeting it might help. You
23 talked about it in your first question.

24 Q. So there was a meeting, I believe in March
25 of 2012, that you attended --

1 MR. KELLY: That might help him with the
2 time frame.

3 Q. -- with Amy Ward and Ray.

4 A. Yes.

5 Q. And so how soon, I guess, before that
6 meeting did you learn of the Department of Labor
7 investigation?

8 MR. KELLY: Thank you, counsel.

9 A. I don't recall the length of time. I
10 remember being told about it. I would not -- I
11 wouldn't know how to put a frame of reference of time
12 on it. It's been a long time ago. I apologize.

13 Q. Do you remember how you first heard about
14 it?

15 A. No.

16 Q. Do you remember discussing the
17 investigation with AIS?

18 A. I remember vaguely discussing that they had
19 received information from the Department of Labor and
20 that they were dealing with it. But we didn't have
21 extensive discussions.

22 Q. Who did you talk to?

23 A. Ray.

24 Q. After the meeting with Amy Ward and others,
25 did you have further discussions with AIS about the

1 Department of Labor investigation?

2 A. After the meeting with Amy Ward, to my
3 recollection, no.

4 Q. After that meeting with Amy Ward, did you
5 take any action regarding the Department of Labor
6 investigation?

7 A. No.

8 Q. Did you take any notes about that meeting
9 or during that meeting?

10 A. No. I don't believe so.

11 Q. Going back to this rate card briefly. Does
12 AIS have the power to negotiate rates with DirecTV?

13 A. They have the power to request changes to
14 their rates and those would be handled on a case by
15 case basis. But is it an open negotiation, not
16 typically.

17 Q. To your knowledge, have any rates been
18 changed at AIS's request?

19 A. I'm unaware if any changes have been made.
20 I can't recall.

21 Q. Do you recall any subcontractor
22 successfully requesting changes to DirecTV rate cards?

23 A. Yes.

24 Q. And what contractor was that?

25 A. I forget the name. I think it was one of

1 ours in another state.

2 Q. Do you recall any details of the
3 negotiations over rates with that subcontractor?

4 A. No.

5 Q. Was there anything that would refresh your
6 recollection?

7 A. Not really. I mean, the request was made
8 to our finance team and the finance team proposed
9 another rate change based on another rate, and they
10 accepted that and we moved forward.

11 Q. And do you oversee the finance team?

12 A. No.

13 Q. At some point the finance team notified you
14 of the rate change?

15 A. Yes.

16 Q. And how did they do that?

17 A. Through a phone call.

18 Q. Are there any e-mails reflecting that rate
19 change?

20 A. I don't know.

21 Q. Do you remember who at the finance team
22 advised you of the rate change?

23 A. No.

24 Q. Just one minute. I think we're almost
25 done. Do you have any documents from the Department

1 of Labor regarding the investigation?

2 A. No.

3 Q. Did you ever receive documents --

4 A. No.

5 Q. -- from the Department of Labor? Have you
6 recently spoken with AIS principals regarding the
7 investigation?

8 A. No.

9 Q. Or the lawsuit?

10 A. No.

11 MS. DOHERTY: I think we're done. Thank
12 you.

13 MR. KELLY: What proposal do you have on
14 the transcript?

15 MS. DOHERTY: Yes. For the transcript.

16 MR. LAKE: Jennifer, do you have any
17 questions?

18 MS. TRUONG: Nothing from me.

19 MS. DOHERTY: How would you like to review
20 it?

21 MR. KELLY: I thought I heard that you were
22 from California; is that right?

23 MS. DOHERTY: No. She's contracting.

24 MR. KELLY: Today is the 4th. If we don't
25 have it expedited we'd have it by the 15th. Can you

1 send that to me electronically regular schedule. I
2 will make it available to Mr. King. Why don't we
3 agree that he'll review it, sign under penalty of
4 perjury within 20 court days. We have something
5 coming up in August and that you're going to be away.
6 I'll get you back any changes in the transcript as
7 soon as I get it back from him.

8 I'll maintain custody of the original and
9 make it available to you at your request.

10 MR. LAKE: So we'll get it back within 20
11 court days of today?

12 MR. KELLY: Twenty court days of when it's
13 sent to me. So assuming it I have it on June 15,
14 you'll have it theoretically by the 10th of July.

15 MR. LAKE: I think we'll hold on to the
16 original and give you a certified copy.

17 MR. KELLY: That's not usually done, but I
18 don't care. He's going to sign something.

19 MR. LAKE: It will come -- a certified copy
20 will come with the attestation at the end or a list of
21 any proposed changes that he would make to the
22 transcript.

23 MR. KELLY: So you're going to keep the
24 original, I'll get the certified copy and work off of
25 that. That's fine. Off the record.

1 (Deposition concluded at 1:47 p.m.)
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

119

GRADILLAS COURT REPORTERS
(310) 859-6677

EXHIBIT N

D E C L A R A T I O N

I declare under penalty of perjury that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the correction sheet hereof.

Christopher King

17
18
19 Dated this 31 day of July,
20 2014.

C E R T I F I C A T E

3 STATE OF WASHINGTON)
4) ss.
5 COUNTY OF KING)

7 I, the undersigned Washington Certified Court
8 Reporter, pursuant to RCW 5.28.010, authorized to
9 administer oaths and affirmations in and for the State
10 of Washington, do hereby certify:

11 That the annexed and foregoing deposition
12 consisting of Page 1 through 118 was taken
13 stenographically before me and reduced to a typed
14 format under my direction;

15 I further certify that according to CR 30(e) the
16 witness was given the opportunity to examine, read and
17 sign after the same was transcribed, unless indicated
18 in the record that the review was waived;

19 I further certify that all objections made at the
20 time of said examination to my qualifications or the
21 manner of taking the deposition, or to the conduct of
22 any party, have been noted by me upon said deposition;

23 I further certify that I am not a relative or
24 employee of any such attorney or counsel, and that I
25 am not financially interested in said action or the

1 outcome thereof;

2 I further certify that the witness before
3 examination was by me duly sworn to testify to the
4 truth, the whole truth and nothing but the truth;

5 I further certify that the deposition, as
6 transcribed, is a full, true and correct transcript of
7 the testimony, including questions and answers, and
8 all objections, motions, and exceptions of counsel
9 made and taken at the time of foregoing examination
10 and was prepared pursuant to Washington Administrative
11 Code 308-14-135, the transcript preparation format
12 guideline;

13 I further certify that I am sealing the
14 deposition in an envelope with the title of the above
15 cause and the name of the witness visible, and I am
16 delivering the same to the appropriate authority;

17

18 IN WITNESS WHEREOF, I have hereunto set my hand,
19 and affixed my official seal this 16th day of
20 June 2014.

21

22 Certified Court Reporter No. 2498
23 in and for the State of
24 Washington, residing at Shoreline,
25 Washington.

1	ERRATA SHEET FOR THE DEPOSITION OF CHRISTOPHER KING		
2	DATE TAKEN:	JUNE 4, 2014	
3	PAGE	LINE	CORRECTION
4	6	24	I was uncertain about the proper names of legal documents and misspoke. I briefly reviewed DIRECTV's written discovery responses in this case that were provided to the DOL's attorneys, not anything from any other litigation.
5	8	7	"SEMA" as written should be "CMA" (Consumer Manufacturers Association) who runs the annual Consumer Electronics show (CES)
6	35	20	"THEM" as written should be "THE"
7	85	20	"Accounts" as written should be "counts"
8	92	20	I misinterpreted counsel's definition of the word "subcontractor". My interpretation of the word "subcontractor" was to describe a company under contract with DIRECTV, not any individual employee of the company. DIRECTV reserves
9	DEPONENT'S SIGNATURE <u>Christopher</u>		
10	DATE <u>7/31/14</u>		

123

GRADILLAS COURT REPORTERS
(310) 859-6677

EXHIBIT N

1 ERRATA SHEET FOR THE DEPOSITION OF CHRISTOPHER KING
2 DATE TAKEN: JUNE 4, 2014

3 PAGE LINE CORRECTION

Continued

4 20 *the right to terminate any contract*
5 _____ *with a subcontracting company, but*
6 _____ *does not retain the right to terminate*
7 _____ *employees of that company, as I*
8 _____ *explained in response to the DOL*
9 _____ *Counsel's question at page 113*
10 _____ *of the transcript.*

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____

25 DEPONENT'S SIGNATURE Christopher DATE 7/31/14

123

GRADILLAS COURT REPORTERS
(310) 859-6677

EXHIBIT N